



Warren Pitt MP  
Member for Mulgrave



Queensland  
Government

Our reference: COM 00367-2006

Minister for Communities,  
Disability Services, Seniors and Youth

23 OCT 2006

Mr Jonathon Curtis  
Committee Secretary  
Senate Legal and Constitutional Committee  
Department of the Senate  
PO Box 6100  
Parliament House  
CANBERRA ACT 2600

Dear Mr Curtis

**Submission to the 'Stolen Wages' Inquiry**

Please find enclosed the Queensland Government submission to this Inquiry.

This submission deals with the measures that the Queensland Government has taken to address the legacy of past government policies that caused great pain to Indigenous Queenslanders, their families and their communities. It is a priority of this Government to address the wrongs of the past and by acknowledging them, work towards a meaningful and hopeful future in partnership with Indigenous Queenslanders.

If you require any further information or assistance in relation to this matter, please contact Mr Michael Hogan, Assist Director-General, Aboriginal and Torres Strait Islander Policy, Department of Communities on (07) 3227 7455.

Yours sincerely

Warren Pitt MP  
**Minister for Communities, Disability Services, Seniors and Youth**

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**Queensland Government**  
**Submission to the Senate's 'Stolen Wages Inquiry'**  
**October 2006**

## Introduction

Queensland was the first jurisdiction in Australia to make a without prejudice offer of reparations to Aboriginal and Torres Strait Islander people who were directly affected by previous government controls over their wages and savings. The \$55.4 million offer was made in the spirit of reconciliation and was aimed at easing the lasting pain caused by the policies and controls of previous governments under a series of legislative provisions controlling the wages and savings of Aboriginal and Torres Strait Islander people.

The historic offer was made following a consultation process with Indigenous communities throughout Queensland undertaken by the Queensland Aboriginal and Islander Legal Services Secretariat (QAILSS) which found an acceptance rate of approximately 94% for the offer among the 5,501 responses received by QAILS during the consultation process.

The offer was based on the Queensland Government's determination to make reparation payments as expeditiously as possible to affected persons, especially to Elders, and to avoid protracted, complex, and unwieldy legal processes. Each claimant was offered independent legal advice and no one was forced to accept the offer. The process preserved the rights of individuals to choose between the offer and legal action. The Queensland Government has allocated over \$1.1 million (outside of the \$55.4 million offer) toward the provision of independent legal advice for claimants.

The administration costs involved in the Reparations Offer were also met by the Government outside of the \$55.4 million offer. The Government established a Work and Savings Histories Branch within the former Department of Aboriginal and Torres Strait Islander Policy to support both the under-award wages and reparations processes. In addition to this Branch, the Community and Personal Histories Branch was engaged to undertake extensive, highly acclaimed and nationally recognised research and archivist work to connect Indigenous people and communities to government records and to assist in the processing of claims. Both the Community and Personal Histories Branch and the Work and Savings Histories Branch were instrumental in ensuring that a high number of claims (8761) were processed relatively quickly (i.e. within four years) and in a culturally competent and sensitive manner. The Community and Personal Histories Branch has been at the forefront of endeavours to provide access to government records and to educate the broader community about past government control practices.

Up to the closing of the reparations offer in January 2006, the Queensland Government had received 8,761 claims of which 63% were deemed eligible. Because of the high volume of claims in Queensland (especially in comparison to other jurisdictions such as New South Wales which is anticipating approximately 1,163 claims) and because of the dispersal of claimants throughout Queensland, Australia, and Papua New Guinea, the Queensland Government chose an administrative process as opposed to a tribunal process.

The Queensland reparations process also included in-built appeal and review mechanisms which coupled with the independent legal advice were designed to optimise the integrity of the process. This process also ensured that claimants were not subjected to legal scrutiny through tribunal processes which had the potential to become lengthy in duration and impersonal, if not traumatic.

In addition to the Reparations Offer, the Queensland Government has endeavoured to address and rectify other long-standing issues arising from past injustices including over \$40 million of payments under the related but separate *Compensation for Non-Payment of Award Wages (1975-*

1986) Scheme which resulted in 5,729 claimants receiving compensation payments of \$7,000 each between 1999 and 2003 and the safeguarding of the Aborigines Welfare Fund which has now grown to approximately \$10 million and will soon be the subject of further consultation with Aboriginal and Torres Strait Islander communities across Queensland.

The Queensland Government remains deeply committed to reconciliation with Aboriginal and Torres Strait Islander people and has recently reaffirmed its commitment to work together with Indigenous people through the *Partnerships Queensland* strategy by simultaneously addressing past injustices and by working together with communities and with the non-government and business sectors to secure a brighter future.

### **Background**

From 1897 to 1984 Aboriginal and Torres Strait Islander people in Queensland were subject to legislation that resulted in government controls being exercised over their lives, their living conditions, their employment and their financial affairs. This legislation was generally referred to as the 'Protection Acts' and included the *Aboriginals Protection and Restriction of the Sale of Opium Act 1897*, *Aboriginals Preservation and Protection Act 1939*, *Torres Strait Islanders Act 1939*, *Aborigines and Torres Strait Islanders Affairs Act 1965*, *Aborigines Act 1971*, *Torres Strait Islanders Act 1971*, *Community Services (Aborigines) Act 1984* and *Community Services (Torres Strait) Act 1984*.

In 1990 the then Queensland Government commissioned an independent report into the operations of the historical systems of control over the wages and savings of Aboriginal and Torres Strait Islander people.<sup>1</sup> Since this time the Queensland Government has endeavoured to address and rectify long-standing issues arising from these past controls. This report and extensive consultations with Aboriginal and Torres Strait Islander people helped inform the Queensland Government's Reparations Offer of May 2002.

### **Indigenous Wages and Savings Reparations Process**

The historic Reparations Offer (at Attachment 1) of the Queensland Government in May 2002 included:

- 1 \$55.4 million for payments to individuals with any unspent balance to be applied to the Aborigines Welfare Fund (see Attachment 2) and a proportion allocated for Torres Strait Islanders
- 2 a written apology from the Government to all living persons who had their wages and savings controlled under an Act and who were eligible to make a claim for compensation (Attachment 3)
- 3 a statement in Parliament to publicly recognise past injustices on the basis of race (Attachment 4)
- 4 a protocol for commencing official Government business with an acknowledgement of the traditional owners of the land (Attachment 5).

The offer specified that distribution of the Aborigines Welfare Fund would be decided separately from decisions relating to the Reparations Offer.

In making the offer, the Queensland Government wished to publicly acknowledge the history of poor treatment of Indigenous Queenslanders by successive Governments through the controls exercised over their wages and savings and to recognise past injustices perpetrated through these control systems. The offer was extended as a package of initiatives, reparations for individuals being one component of this package. The Government has always been clear that the monetary component of the package was never intended to replace money that people believe they are owed. Rather it was made in the spirit of reconciliation.

In making the offer, the Queensland Government built upon its accumulated experience in addressing issues arising from the operations of the 'Protection Acts.'

Beginning in 1992, the predecessor departments of the Department of Communities, through the activities of its Community and Personal Histories Branch, had identified and managed historical records, developed a sound understanding of these records and facilitated access by Aboriginal and Torres Strait Islander people to these records. The Department had also provided information sessions throughout the State to Aboriginal and Torres Strait Islander peoples and communities.

The Government had also undertaken an administrative process to compensate Aboriginal and Torres Strait Islander people who worked for the predecessor departments of the Department of Communities between 1975 and 1986 and who were not paid award wages for work that they undertook. Through this Compensation for Non-Payment of Award Wages (1975-1986) Scheme, \$40.103 million was provided to eligible claimants (see Attachment 6).

From its experience in conducting the compensation scheme and the work of the Community and Personal Histories Branch, the Government was aware that many of the people directly affected by this system of controls were elderly, that most were unlikely to be able to provide documentary evidence and that they were located in communities – many isolated - throughout the State, including in the Torres Strait Islands.

The Queensland Government was also aware that, without researching each case individually and intensively, it would be impossible to say for certain how much money each former worker might be compensated for. By this time, this Government had demonstrated, through its own research and attempts to reconstruct individuals' accounts that many of the documents required to permit this reconstruction no longer existed. Also, because of the passage of time, the memories of individuals were often not supported by available documentary evidence. Because of the advanced age and infirmity of Government officials with first-hand experience of the operations of the system, this information source was not available to assist in interpreting available records.

The Government was also aware that, commencing in 1996, the Aboriginal and Torres Strait Islander Commission provided funding of at least \$800,000 to the Queensland Aboriginal and Islander Legal Services Secretariat (QAILSS) to carry out research into Indigenous wages and savings issues in preparation for litigation, without any outcome being achieved for the Aboriginal and Torres Strait Islander people who had been subject to controls over their wages and savings.

It was therefore considered imperative that the process established to administer individual reparations payments should be both simple and timely, so that no unnecessary evidentiary or bureaucratic burden was placed on elderly applicants and no unnecessary delays were experienced. Furthermore, given the significant numbers of people affected by previous controls, the Government formed a view that complex legal or tribunal processes would be unwieldy, legalistic, costly, and unlikely to meet the needs of people with high and immediate

needs, especially the elderly and seriously ill. At the same time, the Government was keen to ensure that the urgency of the matter did not compromise due process so appeal and review mechanisms were built into the process, independent legal advice was made available to claimants, and claimants were afforded the opportunity to make affidavits.

In November 2002, following community consultations throughout Queensland which demonstrated that there was support for the reparations offer from 94 per cent of respondents, the Government decided that the offer would proceed and the Indigenous Wages and Savings Reparations process was established in 2003.

#### Eligibility

Eligible claimants under this process were those:

- 1 who were alive on 9 May 2002 (the date of the offer)
- 2 were born on or before 31 December 1956
- 3 had their wages or savings controlled under a 'Protection Act'.

The Government was aware from its experience in the *Compensation for Non-Payment of Award Wages (1975-1986) Scheme* process that the majority of Aboriginal and Torres Strait Islander people die intestate and that attempts to distribute estates in accordance with succession requirements are administratively complex and likely to result in outcomes that are considered inequitable by some or all of the parties concerned. These difficulties would have been magnified if descendants of long-deceased persons were entitled to claim on behalf of these persons. Having considered these matters, a decision was taken to focus on those persons who were alive at the time of the offer.

The cut off date of 1956 was based on the fact that people born between 1957 and 1965 would have been 9 years old or younger when the 1939 Act was repealed in 1965 and 15 years old or younger in 1972 when the 1965 Act was repealed. They were therefore unlikely to have had their wages and/or savings compulsorily controlled.

Depending on their date of birth eligible claimants were paid either \$4 000 or \$2 000. The differing amounts reflect the assumption that (a) people born before 31 December 1951 were subject to the 1897 and/or the 1939 Acts and their wages/savings were subject to intensive controls and (b) those born between 1952 and 1956 were more likely to have worked and had their savings controlled under the 1965 Act. This Act removed some of the controls, such as compulsory contributions to the Aborigines Welfare Fund, included in the earlier legislation.

Individual reparation payments were not intended to provide replacement amounts for money which people may have believed they were owed and the Queensland Government has explicitly acknowledged that the monetary offer may not meet the expectations of many potential claimants. Government emphasised that the monetary offer was only one component of the package which was offered in a spirit of reconciliation.

Priority in the assessment process was given to those who were elderly or seriously ill.

In publicising the offer and seeking applications from claimants, information sheets on the operations of the system of control were provided to potential claimants (see Attachment 7). Departmental staff also provided information sessions to potential claimants throughout the State. Information was also provided on the process itself and on the procedure for making and

processing a claim.

This information clearly stated that claimants under the Indigenous Wages and Savings Reparations Process were not required to provide evidence of wages or savings control in support of their claims. The Department looked only for evidence of control of a claimant's wages or savings in Government records (one relevant record may be sufficient) rather than attempting to reconstruct work or savings histories to establish eligibility.

Because the Government was aware that relevant records may be incomplete for particular time periods and locations, it acknowledged that, for a small proportion of people who were subject to the controls over wages and savings, records may not be available. Consequently, provision was made for use of affidavit evidence. An appeal process was also instituted for unsuccessful claims. Can we say this process was used successfully?

#### Reparations to Date and Next Steps

By the closing date of 31 January 2006, 8 761 claims had been received. To 9 October 2006, 8752 claims had been assessed with 63% assessed as eligible and 5413 claims paid - a total of \$19.11 million.

In 2003, the Government made a commitment that at the end of the process any unspent balance of the reparations amount will be placed into the Aborigines Welfare Fund with a proportion to be provided for the benefit of Torres Strait Islander people. The Government had decided that a foundation governed by a board of eminent persons would be established and will make decisions relating to the management of assets of the foundation. However, because of the quantum of funds now involved, further consultation is planned to seek the views of Aboriginal and Torres Strait Islander people in relation to the application of monies within the Aborigines Welfare Fund and the unspent funds out of the Indigenous Wages and Savings Reparations Offer.

#### **Conclusion**

The Queensland Government acknowledges the pain and suffering experienced by Indigenous peoples who were subject to the controls exercised over their lives by previous administrations and has, through the initiatives outlined in this submission, endeavoured to respond to the injustices of the past. The Government provided written apologies to all living persons who had their wages and savings controlled under the Act and who were eligible to make a claim for compensation. Furthermore, over \$40 million of compensation has been provided to people who were underpaid on the basis of race between the years 1975 and 1986. The Government also continues to honour a commitment to acknowledge the traditional owners of the land at the commencement of official government business.

In addition to acknowledging the past and ensuring that the mistakes of the past are not repeated, the Queensland Government is firmly focused on the future. The priority is on building a better future for Aboriginal and Torres Strait Islander people. The Government takes a leading role in reconciliation and demonstrates this with practical strategic planning, performance management, and service delivery designed to have a positive effect on the lives of Aboriginal and Torres Strait Islander people.

The Queensland Government has already done much to meet the expectations and needs of Aboriginal and Torres Strait Islander peoples. Policies and programs developed to improve the quality of life in Aboriginal and Torres Strait Islander communities reflect extensive consultation

and collaboration at community, regional and state levels. The Government is determined to apply these policies and their underlying principles across the state through implementation of the *Partnerships Queensland: Future directions framework for Aboriginal and Torres Strait Islander Policy in Queensland 2005-10* (Attachment 8).



#### Attachments

1. Reparations offer and statement in Parliament
2. Aborigines Welfare Fund
3. Written apology from the Government
4. Parliamentary Statement by Minister Spence
5. Protocol for commencing official Government business
6. Compensation for Non-Payment of Award Wages (1975-1986) Scheme
7. Reparations Process - Information Sheets
8. Partnerships Queensland: Future directions framework for Aboriginal and Torres Strait Islander Policy in Queensland 2005-10 (CD-ROM)

#### End Notes

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- <sup>1</sup> The Consultancy Bureau, *Investigation of the Aborigines Welfare Fund and the Aboriginal Accounts*, Final Report, Brisbane, Australia, March 1991.

## MINISTERIAL STATEMENT

### Aboriginals and Torres Strait Islanders, Compensation

**Hon. P. D. BEATTIE** (Brisbane Central—ALP) (Premier and Minister for Trade) (9.40 a.m.), by leave: Finally today I wish to make a very important ministerial statement in relation to righting a wrong that has been around for over 100 years. Last Thursday the Minister for Aboriginal and Torres Strait Islander Policy, Judy Spence, and I met with representatives of the Queensland Aboriginal and Islander Legal Services secretariat, the Aboriginal and Torres Strait Islander Advisory Board and other indigenous representatives. At the meeting, the minister and I made an offer on behalf of the government of Queensland aimed at easing the lasting pain caused by past government policies relating to the control of indigenous savings and wages. The most potent symbol of these policies is the Aborigines Welfare Fund.

We intended to maintain confidentiality around the offer until we reached resolution, so that the people who were affected by the policies, many of whom are ageing, could consider it without the static of an emotional public debate. However, details of the offer entered the public arena and, as members would know, were published this morning in the *Courier-Mail*. I have no criticism for the *Courier-Mail*. I think its story this morning was very balanced and fair. However, it is now only proper that I place on the record the facts of the government's offer to Aboriginal and Torres Strait Islander Queenslanders. This morning at 9 o'clock cabinet met and Judy Spence and I briefed cabinet and cabinet has endorsed the offer. I also rang Vaughan Johnson, the Deputy Leader of the Opposition and opposition spokesman, and briefed him. On Judy's and my behalf, I have also offered to Vaughan a detailed briefing, and he will be briefed later today. Vaughan was appreciative of the phone call and he will be briefed appropriately today.

Importantly, we are dealing with two separate but related issues. One is the Aborigines Welfare Fund, into which a portion of indigenous people's wages were paid between 1943 and the 1960s. The fund was frozen by the Goss government in 1993, when it totalled less than \$5.5 million. It has since been managed by Queensland Treasury and now contains \$8.6 million. That has been the normal growth. We will continue to negotiate with the indigenous community how this fund will be disbursed.

The other issue is that of reparations for the decades of control by former Queensland administrations of the wages and savings of indigenous people. Our monetary offer of up to—and I underline 'up to'—\$55.6 million is about reparations for an estimated 16,400 people alive today. I stress that the amount will be up to \$55.6 million. The final payment will depend on how many legitimate claims we receive. We are obviously establishing a process to ensure that there are legitimate claims which are verified before payments are made.

I seek to incorporate in *Hansard* the details of the offer that has been made so that all members are fully aware of every aspect.

Leave granted.

(Without Prejudice)

#### Queensland Government Offer

The Queensland Government acknowledges the controls exercised under a series of Acts known as "the Protection Acts" over the wages and savings of Aboriginal and Torres Strait Islanders peoples. This Government is committed to reaching a resolution of these long standing issues and wishes to make an offer for this purpose.

The Offer is:

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00367-2006 Attachment 3.a.doc

# Attachment 1

## 1. Monetary Amount

The total amount offered is \$55.4 million and is a once only offer and a capped amount.

## 2. Apology

A written apology from the Government to all living persons who had their wages and savings controlled and who are eligible to make a claim.

## 3. Parliamentary Acknowledgement

Upon agreement, the Premier will make a Statement in the House on behalf of the Government. This Statement will place a public recognition of past injustices on the basis of race on the Parliamentary record. The Premier will host a major function to commemorate the occasion at Parliament House.

## 4. Government Protocol to Acknowledge Traditional Owners

A protocol for commencement of all official Government business will be adopted requiring acknowledgment of traditional owners.

## 5. Aborigines Welfare Fund

The distribution of the Aborigines Welfare Fund (currently \$8.6M) to be progressed as a separate issue. This distribution to include, but not be limited to, the development of an oral histories collection relating to this matter, and appropriate signage which recognises the tribal boundaries around country. Other projects may include, for example, a history kit for schools.

## Basis for Reparation:

In making this reparations offer the Queensland Government acknowledges that the monetary offer may not meet the expectations of many potential claimants.

The current Government negotiating position is that the reparation offer is being made, not based upon any admission of legal liability, but in the spirit of reconciliation.

## Distribution

The Government's formula for distribution is detailed over the page. Other options for distributing the total amount are open to consideration. Proposals regarding distribution should be provided in writing by Friday 9 August 2002 to the Honourable Judy Spence MP Minister for Families, Minister for Aboriginal and Torres Strait Islander Policy and Minister for Disability Services.

## Fixed Principles

Agreement on this offer must be consistent with the following principles:

The reparation funds will be administered by the Department of Aboriginal and Torres Strait Islander Policy;

Any formula for distribution must:

- Give priority to older people;
- Ensure equitable access by potential claimants;
- Be transparent and accountable; and
- Be simple and timely.

The Government requires that any compensation process be completed within three years of an agreement.

## Reparation Amounts

The total amount of the package is capped at \$55.4.

# Attachment 1

The Government formula and rationale is detailed below. Other options for distribution will be considered.

## Categories of Eligible Claimants

### Group A Claimants

Eligible claimants will be people who were:

- Born up to the end of 1951 and are aged 50 or older in 2002;
- Lived under the 1897 and/or 1939 Acts; and
- Are alive at a date to be agreed.

The proposed reparation payment for these claimants is \$4,000 per person. Population estimates indicate there are approximately 11,400 people alive today who may be in this group.

### Group B Claimants

Eligible claimants will be people who were:

- Born up to the end of 1956 are aged between 45 and 49 in 2002;
- Lived under the 1939 and/or 1965 acts;
- Are alive at a date to be agreed; and
- Are not included in the group above.

The proposed reparation payment for these claimants is \$2,000 per person. Population estimates indicate there are approximately 5,000 people in addition to those in Group A who are alive today who may be in this group.

NOTE: The above estimates were prepared by the Office of Economic and Statistical Research. They include a 6% undercount in census numbers and an assumption that all Aboriginal and Torres Strait Islander people were under the Act.

## Indemnity

Payment of the reparation amount will be subject to each person signing an agreement which indemnifies the Government against any common law or other legal actions which may otherwise be available under the Aboriginals Protection and Restriction of the Sale of Opium Acts 1897, the Aboriginals Preservation and Protection Act 1939, the Torres Strait Islanders Act 1939, Aborigines and Torres Strait Islander's Affairs Act 1965, the Aborigines Act 1971, the Torres Strait Islander Act 1971, Community Services (Aborigines) Act 1984 and the Community Services (Torres Strait) Act 1984.

## Mr BEATTIE:

Mr Speaker, when you look at the offer you will see that it refers to \$55.4 million as opposed to the \$55.6 million that I just referred to. In the negotiations that Judy Spence and I engaged in there was a request for detailed consultation of indigenous people. Judy and I agreed at the meeting to reduce the offer amount by \$200,000 to allow that consultation to take place. That is why there is a difference of \$200,000 in the figure.

This is a without prejudice offer of a one-off payment. It builds on the process we began in 1999, when we offered one-off payments for non-payment of award wages to indigenous people. We

## Attachment 1

are not acknowledging legal liability. I underline that very clearly. We would give priority to old people, who suffered most while living 'under the act'—an expression that captures the series of legislative regimes that controlled virtually all aspects of their lives. Eligible people would be in two categories: people born up to the end of 1951 and aged 50 or over—old people in Aboriginal society—who are offered \$4,000, of whom there are about 11,400; or people born up to the end of 1965, who are offered \$2,000. There are about 5,000 such people. Those are estimates but we believe accurate estimates.

We are also offering written apologies, a statement in the House and a protocol for commencement of all official government business requiring acknowledgment of traditional owners. We know that the monetary offer may not meet the expectations of all potential claimants. Indeed, historian Dr Ros Kidd has said they should qualify for as much as \$500 million. Without researching each case individually and intensively, it is impossible to say for certain how much each worker is 'owed'. So this offer is made in the spirit of reconciliation, as a demonstration of our genuine desire to heal the past, so we can move on. Governments have been trying to resolve this issue since the days of the Goss administration. In the meantime, old people have been dying.

Never before has there been such an offer. This is an historic offer. It is also a realistic and fair offer. Already we have had one Welfare Fund related out of court settlement, and another person is preparing for court action. The Queensland government has already spent at least \$1.5 million researching the history of wages and savings in preparation for legal challenges. ATSIC has expended at least \$800,000 through funding to QAILSS, which has done research in preparation for litigation. QAILSS has said it has some 4,000 potential litigants waiting in the wings to sue us.

If we look at the federal government's experience with the stolen children, we see why taxpayers' money should not be going into the pockets of lawyers. Canberra has spent more than \$12 million on just one case alone—the Gunner and Cubillo case—which went all the way to the High Court and helped no-one but the lawyers. If we resisted every one of these cases, this could cost Queenslanders \$100 million or more in legal expenses. That is a rough guess. It is a lot of money. Settling this away from the courts will save the taxpayers of Queensland millions. There is a win for indigenous people, particularly old indigenous people or elderly indigenous people approaching the end of their lives. There is a win for taxpayers, because it will cost them less, and there is a win for reconciliation and decency.

Who can blame these people for feeling angry, even bitter? In an increasingly litigious age, who can blame them for wanting to take us to court? They worked and paid taxes. Effectively, they paid tax twice, because a portion of their earnings—as much as 10 per cent of gross pay—was creamed off into the welfare fund. People living 'under the act' were not informed of how much money was in their accounts, were not trusted with any significant sums of money and had to seek permission to spend even small amounts. This was all in living memory. It happened to people younger than me. People in this House may never have known such humiliation, but many of us will understand their anger.

We have a choice. We could deliver some overdue justice to ageing people and advance the cause of reconciliation, or we could see them in court and watch the lawyers grow rich and fat at public expense. The court cases would be protracted, the old people would continue to die, and the lawyers would continue to get rich. Each Welfare Fund case is different, so each would need to be prosecuted separately. This would be a legal nightmare.

Considering the Commonwealth's \$12 million legal bill, a bill of tens of millions for the Queensland government is perhaps conservative. In the reconciliation debate, people sometimes ask: when will it end? When can we stop saying sorry and move on? Resolving the Aborigines

## Attachment 1

Welfare Fund will clear a major hurdle on the road to reconciliation. I have asked that the other parties respond to the offer by 9 August to the minister, Judy Spence. I hope the offer will be accepted. I urge indigenous people to accept it so we can forget the threats of litigation and move on together.

This is an historic day. It is about rectifying a wrong, but it is doing so in a fair and balanced way where indigenous people get what they are entitled to and we save taxpayers money. When people ask, 'What is the benefit of having 66 seats in parliament?', I say to the Labor Party: being able to fix problems created more than 100 years ago, and bringing justice and fairness to a group or people—that is one of the benefits of having a majority like we do.

### Aborigines Welfare Fund

The Aborigines Welfare Fund was set up in 1943 for the general benefit of Aboriginal people under the provisions of the *Aboriginals Preservation and Protection Act 1939*.

This Fund comprised income from a range of sources, including profits from Government operated retail stores, child endowment benefits paid for Aboriginal children in dormitories and income earned by grazing and agricultural enterprises on communities. From the early 1900s until 1966, a compulsory deduction from Aboriginal peoples' wages was taken for the support of communities or the 'relief of individuals'. With the establishment of the Aborigines Welfare Fund, the compulsory deductions were paid into the Fund. The Fund also held moneys from deceased estates that were not paid to beneficiaries.

Commonwealth funds provided for assistance to Aboriginal people (for example, housing) were managed through this account in the later period of its operations.

In 1993 the Fund was frozen in response to growing public awareness of issues relating to the controls exercised over Indigenous wages and savings during the protection era, pressure from Indigenous people to address these issues and a Government decision to divest trading enterprises. Since 1993 the only transactions in the account have been the addition of interest payments.

The balance of the Fund at 30 June 2006 was \$10.1m.

Below is a summary of the Queensland Government's actions since 1991, addressing the legacies of the past in relation the Aborigines Welfare Fund.

## Attachment 2

### Government Action on the Aborigines Welfare Fund and Associated Accounts since 1990

Year	Action
1991	Publication of "Investigation of the Aborigines Welfare Fund and the Aboriginal Accounts" by the Consultancy Bureau.
1992	Establishment of the Community and Personal Histories Branch to provide individuals with access to government records created about them and their communities (including financial records).
1993	The Aborigines Welfare Fund was frozen except for the addition of interest payments.
1998	A predecessor Department of the Department of Aboriginal and Torres Strait Islander Policy established a research project to attempt to reconstruct the Aborigines Welfare Fund and associated accounts. This project was discontinued after 4 years. More detailed research was not considered necessary at that time, as the Government developed its reparations policy.
1999	Cabinet decided to establish the Compensation for Non-Payment of Award Wages (1975-1986) Process (now finalised).
2000	The Department of Aboriginal and Torres Strait Islander Policy embarked on a 2 year information program, "Wages and Savings of Indigenous Queenslanders 1897 to 1970s", delivering information to Aboriginal people throughout the State (ceased in 2002).  Queensland Government approved a negotiation framework relating to a possible reparations package (including individual payments) and the Aborigines Welfare Fund.
2001	Ongoing consultation was undertaken (including an Elders Forum) on the distribution of the Aborigines Welfare Fund.
2002	Queensland Government offered \$55.4 million for individual reparations.
2003	The Indigenous Wages and Savings Reparations process commenced (and will be finalised by 31 December 2006).  The Department of Aboriginal and Torres Strait Islander Policy undertook community presentations on the history of wages and savings to inform people in relation to the reparations process.
2005-2006	Ongoing consideration of the application of the balance of the Aborigines Welfare Fund and unspent reparations money.  A consultation process is being developed to determine community views on options for unspent funds from the Indigenous Wages and Savings Reparations process and the Aborigines Welfare Fund.



I, the Honourable John Mickel MP, Minister for Energy and Minister for Aboriginal and Torres Strait Islander Policy on behalf of the Queensland Government do sincerely regret any distress, personal hurt or humiliation suffered by

because of the control of your wages or savings under the "Protection Acts".

This apology is made in the spirit of Reconciliation, with the acknowledgment of past hurts felt by you and your people, and in the hope of a new partnership between Indigenous Queenslanders and the Queensland Government.

**JOHN MICKEL**  
**Minister for Energy and**  
**Minister for Aboriginal and Torres Strait Islander Policy**

**MINISTERIAL STATEMENT**  
**Reparation Offer to Indigenous Workers**

**Hon. J. C. SPENCE** (Mount Gravatt—ALP) (Minister for Families and Minister for Aboriginal and Torres Strait Islander Policy and Minister for Disability Services and Minister for Seniors) (10.10 a.m.): Last Wednesday this government confirmed its offer of reparations to indigenous Queenslanders who suffered the control of their wages and savings by successive Queensland governments from the 1890s until 1972. This offer has followed extensive consultation with indigenous Queenslanders by this government since we came to office, and I am proud to be part of a government that is prepared to finally provide some resolution to indigenous Queenslanders on this long outstanding matter. No amount of money will ever compensate for the gross injustices that have been perpetrated in the past against the traditional owners of this land. We know that but we also know that indigenous Queenslanders want this matter settled so that we can all move on. They also know that this is the only government that has been prepared to make a genuine offer to reconcile over this issue.

So, in the spirit of reconciliation, we are offering: financial reparations of \$55.4 million; a written apology from the government to all living persons who had their wages and savings controlled and who are eligible to make a claim for compensation; parliamentary acknowledgment that will publicly recognise the past injustices on the basis of race; and government protocols for the acknowledgment of traditional owners. The distribution of the welfare fund, which is currently \$8.6 million, will be progressed next year, but that money will not be used for individual reparation payments. Consultations with indigenous Queenslanders have already produced some valuable suggestions about what to do with the money, including an educational scholarship program; history kits for schools; an oral histories collection; monuments; and other projects that will acknowledge the contributions of indigenous workers to the development of this state.

It is important that we educate current and future generations about the facts of the past and the injustices that have helped create a legacy of disadvantage for indigenous people in Queensland. Under the reparations offer, indigenous Queenslanders whose lives were controlled under the earlier acts of 1897 and 1939 will be offered \$4,000 payments. Indigenous Queenslanders who were subject to the 1965 act will be offered a \$2,000 payment, and that is because the later act was less controlling and did not include compulsory contributions to the welfare fund. The government wants to make these payments as quickly as possible and the Department of Aboriginal and Torres Strait Islander Policy will make sure this happens. We expect the payments process to take three years, and elderly and seriously ill people will be paid first. Official claim forms will be available from Department of Aboriginal and Torres Strait Islander Policy offices from 1 February next year. To make a claim, people must fill out the form. We expect payments to commence in March.

This is an historic offer and it will provide some long overdue justice to indigenous Queenslanders. I ask all members of parliament to encourage people in their communities to pursue a claim. People will be offered independent legal advice before they apply for the payment and they will not be forced to apply, but we want to get this money out to those people who deserve it. The Beattie government has much to be proud of. We offered a sincere and genuine apology to the stolen generation. We have moved forward in resolving native title issues. We have compensated indigenous people who were underpaid on the basis of race between the years 1975 and 1986. I believe that this reparations offer for the control of wages and savings and final resolution of the welfare fund next year will help us all move forward in the true spirit of reconciliation.

**SECTION:** Protocol Queensland

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**SUBJECT:** Aboriginal and Torres Strait Islander Protocol - Acknowledgement of Traditional Owners

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**1. Purpose**

- 1.1 The purpose of this protocol is to acknowledge and demonstrate respect for Aboriginal and Torres Strait Islander people as the Indigenous peoples of Australia and recognise their ongoing ties with land and sea.
- 1.2 This policy outlines the guidelines established by the Queensland Government for all Queensland Government staff speaking at official Queensland Government business requiring acknowledgement of Aboriginal and Torres Strait Islander Traditional Owners.

**2. Scope**

- 2.1 This policy applies to all Queensland Government members and employees conducting Government business at events listed under clause 4.1.

**3. Criteria**

- 3.1 The wording to be used for acknowledgement of Aboriginal and Torres Strait Islander Traditional Owners is:

"I would like to respectfully acknowledge the Traditional Owners of the land (insert name of the Traditional Owner group if known and appropriate) on which this event is taking place."

A short pause should be taken after the acknowledgement as a sign of respect, before progressing with the remainder of the speech.

**4. Operational Guidelines**

- 4.1 This policy would apply to external public functions including:
  - 4.1.1 Government organised, funded and co-funded functions
  - 4.1.2 Queensland Government events and functions
  - 4.1.3 Queensland Government sponsored conferences, seminars and workshops
  - 4.1.4 Official launch ceremonies for Queensland Government policies, programs and services
  - 4.1.5 Significant community engagement meetings, for example the Negotiation tables.
- 4.2 This will ensure appropriate acknowledgement of Aboriginal and Torres Strait Islander Traditional Owners at all relevant government-related events.

- 4.3 An internal business meeting would not require the acknowledgement of Aboriginal and Torres Strait Islander Traditional Owners.
- 4.4 The first speaker and all subsequent speakers, as appropriate, can also acknowledge the Aboriginal and Torres Strait Islander Traditional Owners.
- 4.5 Government members and employees are encouraged to research the identity of the Traditional Owners of the local area.
- 4.6 Should any Government employee be uncertain as to whether the Aboriginal and Torres Strait Islander Protocol applies to a specific function or event, advice should be sought from Protocol Queensland, Department of the Premier and Cabinet.
- 4.7 Organisers of Queensland Government hosted or funded events and functions should contact the relevant regional office of the Department of Aboriginal and Torres Strait Islander Policy (DATSIP) to confirm the name, pronunciation and appropriateness to mention the name, of the relevant Aboriginal and Torres Strait Islander Traditional Owners of the land on which the event is taking place.

### 5. Other Relevant Information

- 5.1 A "Welcome to Country" is different to an acknowledgment of country in that it is a cultural practice performed by Aboriginal and Torres Strait Islander Elders or traditional owners and can be used to open significant events and formal functions. It is often used in tandem with the protocol of acknowledging traditional owners.
- 5.2 Some community-based meetings in the Torres Strait and in some mainland communities are opened with a prayer.
- 5.3 Government Officials responsible for organising an event and who require advice about the appropriateness of incorporating a "Welcome to Country" or a prayer at an event should refer to clauses 6.1 and 6.2. These clauses identify appropriate contact officers for further advice.

### 6. Actions

- 6.1 Enquiries regarding this Aboriginal and Torres Strait Islander Protocol should be directed to:

The Director  
Protocol Queensland  
Department of the Premier and Cabinet  
Phone: 3239 3731

The Executive Director  
Strategic Policy and Partnerships Directorate  
Department of Aboriginal and Torres Strait Islander Policy  
Phone: 3224 2518

- 6.2 Enquiries regarding the identity and appropriateness to mention the names of Aboriginal and Torres Strait Islander Traditional Owner groups at a Queensland Government event should be directed to:

Regional Director  
South Queensland Region  
Department of Aboriginal and Torres Strait Islander Policy  
Phone: 3225 8982

Regional Director  
Central Queensland Region  
Department of Aboriginal and Torres Strait Islander Policy  
Phone: 4938 4690

Regional Director  
North Queensland Region  
Department of Aboriginal and Torres Strait Islander Policy  
Phone: 4799 7470

Regional Director  
Far North Queensland Region  
Department of Aboriginal and Torres Strait Islander Policy  
Phone: 4039 8177

Regional Director  
West Queensland Region  
Department of Aboriginal and Torres Strait Islander Policy  
Phone: 4744 7333

Regional Director  
Torres Strait Region  
Department of Aboriginal and Torres Strait Islander Policy  
Phone: 4083 1001

## Attachment 6

### Compensation for Non-Payment of Award Wages (1975-1986) Scheme

Some Aboriginal and Torres Strait Islander workers employed by the Queensland Government from the early 1900s until 1986 worked on reserves. In communities controlled by the predecessor departments of the Department of Aboriginal and Torres Strait Islander Policy, many Aboriginal and Torres Strait Islander workers were paid at a community rate, which was generally less than the rate paid to their non-Indigenous counterparts. These community wages were paid until 1 April 1980, when the Guaranteed Minimum Wage was introduced to Indigenous communities. Award rates of pay were not introduced until 29 October 1986.

In 1996, the Human Rights and Equal Opportunity Commission upheld the complaint of six Aboriginal elders from Palm Island against the Queensland Government under the Commonwealth *Racial Discrimination Act 1975*. The Commission found that the complainants had been discriminated against in their employment in that they were paid wages at rates lower than those to which they would otherwise have been entitled were they not Aborigines. The Commission determined that the Queensland Government should pay each of these complainants the sum of \$7 000 and publicly acknowledge its regret that each complainant was denied his or her human right to the enjoyment of just and favourable work conditions, to equal pay for equal work and to just and favourable remuneration.

In May 1999, as a consequence of this decision and settlement of subsequent claims, the Queensland Government established the Compensation for Non-Payment of Award Wages (1975-1986) Scheme (also known as Under Award Wages). This process compensated Aboriginal people and Torres Strait Islanders who worked for the predecessor departments of the Department of Aboriginal and Torres Strait Islander Policy between 31 October 1975 (the date the *Racial Discrimination Act 1975* came into force) and 29 October 1986 (the date when award wages were paid to all departmental employees) and who did not receive award wages.

Eligible claimants under this scheme were those Aboriginal or Torres Strait Islander people (later extended to include those South Sea Islanders and Papua New Guineans who were paid in the same manner as Aboriginal and Torres Strait Islander employees) who were:

- alive on 31 May 1999 (the date of the Government decision to pay compensation for the non-payment of award wages)
- not paid applicable award wages while working for the Department of Aboriginal and Islander Affairs, or the Department of Community Services, between 31 October 1975 (the date the *Racial Discrimination Act 1975* came into force) and 29 October 1986 (the date when award wages were paid to all Departmental employees).

Eligible claimants each received \$7 000 (the amount awarded to each successful claimant in the Palm Island case) and a written apology from the Minister for Aboriginal and Torres Strait Islander Policy on behalf of the Government. In return, eligible claimants were required to sign a Deed of Agreement, after receiving independent legal advice, waiving their rights to seek further damages from the Government in any other forum in relation to this matter.

To assist Aboriginal and Torres Strait Islander People living on the mainland in making their claims, the Foundation for Aboriginal and Islander Research Action, contracted under a Service Level Agreement with the Queensland Government, was responsible for the collection of claim forms from and the provision of legal advice to, Aboriginal people and Torres Strait Islanders living on the mainland. The Island Coordinating Council provided a similar service to Torres Strait Islander claimants living in the Torres Strait.

In administering this process, the department researched departmental records, determined claimants' eligibility, made payments and forwarded Ministerial apology letters to all eligible

## Attachment 6

claimants. In determining eligibility, the department sought to find only one departmental record of an instance where a claimant had not been paid award wages for work undertaken while the claimant was an employee of the State. Detailed work histories were not required and claimants were not required to provide documentary evidence. However, the Department of Aboriginal and Torres Strait Islander Policy made work records available to claimants who requested these through the service providers.

By the closing date of 31 January 2003, 10 666 claims had been received. At the conclusion of the process 5 729 eligible claimants had been paid \$40.103 million.