

We wish to raise some matters which we believe will be helpful to the Inquiry and which arise from our attendance at the hearings in Brisbane on Wednesday 25th October.

Points covered:

1. QAILSS proposal
2. Use of the residue
3. Size of the residue
4. Effect of the waiver

5. The 'independent' legal advice

1. The Inquiry requested information on the proposal prepared by QAILSS for the Queensland government. This is a 37 page document, which can be faxed if required. Attached is a 2 page summary of this document, including a complete transcription of page 31 which details a proposed formula for payment to claimants. [Attachment 1]

In addition to this document, we also have a copy of a letter to Premier Beattie from the National Solicitor for NAILSS, dated 9th February 2001 (marked not for media publication nor general release, but in fact widely circulated in the Brisbane community around 2002-3). In this letter, NAILSS foreshadows a claim of \$180,000 million.

2. In regard to the use of money called "the residue", the government spokesman at the Inquiry stated that it was to be added to the Welfare Fund amount and used generally for the good of Indigenous communities, rather than topping up payments to claimants. However, the strong feeling among people in the campaign is that this money was earmarked for "individual reparations" by Beattie in his initial parliamentary speech. Recent government statements have been more equivocal, and the Working Group has been urging further community consultation before a decision regarding this money is reached. As recently as 25th October, it was reported of the new minister Warren Pitt in ABC News Online:

'He says that the \$35 million is still to be distributed, subject to further community consultation.

"I think the challenge for us is where do we go from here, what do we do with that money because the bottom line is it's money that's been set aside not only for reparation, but also for the future of Indigenous people in Queensland," Mr Pitt said.'

3. The question of why the "residue" is so large.

A. The committee seemed to be leaning to the view that a very large number of people had refused to accept the offer. This is not strictly accurate. Most eligible people in fact accepted the payment for the sorts of reasons given by witnesses at the Inquiry. In fact, the departmental officers charged with working out a formula for distributing the \$55.4 million available made a serious mistake. They used census data to calculate the number of Indigenous people of that age group in the state, so divided the \$55.4 million between 16,500 people. Anyone with a decent amount of experience/knowledge in this area would tell you that a fair proportion of these people did **not** have their wages and savings controlled. Dr Kidd

reports that in “1960s the census gave total of around 50,000 ATSI people in Queensland of whom the department says 21,000 were **not** controlled”.

So, through ignorance or neglect, the \$55.4 million was divided by a vastly higher number than it should have been. People who did accept payment therefore received maybe half of what they could have received had the departmental employees concerned been careful and accurate in their calculations.

B. People whose applications were rejected.

Despite the Queensland Government's claim in its submission that Indigenous people were not required to provide evidence in support of their claims, a significant number of claims (more than 3,000) were rejected. In many cases the reason given is that no records had been found. The interpretation apparently placed on this fact by the government was that no records had ever existed, yet it has been admitted that some Government records have been 'lost' or destroyed. [In one instance a friend of ours who had made an application was informed that no records could be found and that many records had been lost in the 1974 flood. She was also sent a photo of the 1974 flood.]

The Queensland offer is inferior to the New South Wales offer in a number of aspects. One is that in Queensland only government documentation can be used to substantiate a claim. In New south Wales, statutory declarations and oral evidence from people with evidence to support a claim is permitted. Also, in Queensland, there is no avenue for review or appeal in respect of decisions, so many people have been left with a grievance which has no possible resolution.

C. There are undoubtedly many Indigenous people, in all parts of the state, who never made a claim because they didn't fully understand the offer and/or lacked access to advice and support to complete an application.

4. During the discussion about those who had accepted the offer and those who had declined, it was clear that many Indigenous people who had accepted the offer felt they had been coerced and were upset about that matter. The sense of coercion mainly relates to the legal waiver which claimants were obliged to sign as a condition of the offer. Without the waiver more people would have been inclined to accept the offer seeing it as a gesture, an initial offering. Asking people to sign a waiver as comprehensive as that presented was a deeply cynical act which preyed on people's poverty and lack of resources. Attachment 2 is a summary of some of the comments recorded by the QAILSS Survey team, and quoted in their report to the government.

5. The 'independent' legal advice.

According to a number of people who accepted the payment, the legal advice was dispensed as follows. A number of people would be asked to attend a government office where a lawyer met with them as a group. Mrs Vera Hill/Willmot, who was a witness at the Brisbane hearings, reported that the lawyer handed out the documents to be signed and pens to those present (4 or 5 in her case). The lawyer explained that signing the waiver meant they had no further possible claim on the government for anything that occurred during their period of service, and that if they didn't sign, they would not receive payment. Mrs Hill/Willmot (among others) asked the lawyer for advice on her own personal circumstances, asked what her records said and whether it was in her interests to sign. The lawyer replied that he didn't know anything

about that, he was only sent to explain what signing meant and to witness them signing the document.

Mrs Hill/Willmot gave her permission for us to send this information to you.

Sincerely

Lin Morrow & Andrew Dunstone