



# Queensland Stolen Wages Reparations Taskforce Report

## *Reconciling Past Injustice*

March 2016



The Stolen Wages Reparations Taskforce was established by the Queensland Government to provide advice and recommendations to the Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships on the **Reparations Scheme — Stolen Wages and Savings**.

**The Stolen Wages Reparations Taskforce:**

Mr Mick Gooda	(Chair)
Ms Pauline Ah Wang	Thursday Island
Mr John Anderson	Brisbane
Ms Gail Barry	Townsville
Ms Rosaline Bourne	Mackay
Mr Morris Cloudy	Townsville
Ms Pamela Hegarty	Rockhampton
Mr Raymond Sambo	Cairns
Mr Marshall Saunders	Brisbane
Ms Vivienne Schwartz	Rockhampton
Mr Thomas Sebasio	Brisbane
Ms Viola Sheridan	Brisbane

**TERMS OF REFERENCE**

Taskforce Responsibilities

- Make recommendations on the scope and eligibility of the Queensland Government Reparations Scheme within the \$21 million funding envelope
- Consult with affected Aboriginal and Torres Strait Islander communities between September and November 2015
- Recommend an application, assessment and payment process by November 2015
- Receive and consider regular reports on the progress and outcomes of the Reparations Scheme until its conclusion in 2018
- Provide advice to the Reparations Unit on any implementation issues that arise and possible solutions throughout the operation of the Reparations Scheme.



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## Acknowledgements

The Stolen Wages Reparation Taskforce (the taskforce) acknowledges and salutes Aboriginal and Torres Strait Islander peoples, the original custodians of the land, winds and waters upon which the State of Queensland was founded. We pay tribute to the unique cultures, heritage, languages, traditional knowledge and the significant contribution Aboriginal and Torres Strait Islander peoples have made to the State's identity.

The taskforce acknowledges those who took part in community consultations held around the state. These Reparations Scheme (the scheme) consultations were the catalyst for many difficult and distressing conversations and stirred unsettling memories for many people. The stories of life for them and their families under the 'Protection Acts' were shared openly with us and have provided the taskforce with critical information on the issues involved with Queensland's stolen wages and savings history.

We sincerely thank the community for participating in these conversations and for providing frank and honest advice on the scheme for our consideration.

The taskforce also acknowledges the support of the Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP). The leadership of the Director-General, Ms Clare O'Connor and Deputy-Director-General, Mr Ron Weatherall, was critical to ensuring all DATSIP staff got behind the Stolen Wages Reparation Scheme. The taskforce particularly thanks the Reparations Unit, especially Paul Newman, Angela Ruska, Becky Bligh, Lee-Darnell Toia, and regional staff who joined with us in hearing those distressing conversations mentioned above, but then provided a respectful professional service to those people whose wages and savings were stolen.

Finally, the taskforce acknowledges and pays tribute for the lengthy battle and hard work Aboriginal and Torres Strait Islander Queenslanders have undertaken with the support of ANTAR, FAIRA, the Trade Unions and others, to seek justice for the wrongs enacted against them by past governments.

## Letter of Transmission

Dear Minister

I hereby submit the Stolen Wages Reparation Taskforce Report – *Reconciling Past Injustice* – for your consideration. When the taskforce was appointed in August 2015, all members immediately realised the magnitude of the task confronting us. We all were aware there had been several attempts in the past to bring some closure to this oppressive period of Queensland's history. It's safe to say that these attempts ended with very few of the people affected by these policies feeling much satisfaction.

As we said to you in our Brisbane meeting of 17 November 2015, the government and the taskforce had the joint aim of bringing some closure to people affected by those past policies, but in doing so we could not create more injustices.

During our consultations, the mere fact that we were asking people to consider the best way to distribute \$21 million meant the reopening of old wounds and re-experiencing of the trauma from those past days.

Therefore, we proceeded with care. First, to ensure people were heard and secondly, that we would carry their messages to government.

There were several contentious areas that people found difficult to address. The first of these was what we call the survival date, 9 May 2002, the date from which people had to be living to access the scheme. As you can imagine most people were concerned about Elders who had passed before that date and therefore would never access any justice for those periods of their lives where they worked and had their money confiscated. While just about every consultation considered that date should be moved back, there was no consensus to which date it should be moved.

We therefore reluctantly recommend that the survival date remain at 9 May 2002.

The other issue of concern is the requirement to sign a 'Deed of Agreement' to access any payment under the scheme. As you know, our Interim Recommendations urged the Government to remove that requirement from past and future applications. Unlike moving the survival date, people consulted were unequivocal that this requirement should be removed. As we agreed, this process should not create more injustices and I therefore implore you once again to advocate for the removal of this requirement.

Whilst the government framed the payment of this \$21 million as an act of reconciliation and reparation, the taskforce came to the view that other acts of reconciliation could be adopted. Some are stand-alone recommendations such as the closure and repeal of the legislation establishing the welfare fund, and the acknowledgement of infrastructure built using monies from the welfare fund and other stolen wages accounts.

In an effort to ensure the people of Queensland never forget the stolen wages period we recommend the creation of two scholarships: one for an Aboriginal person; and one for a Torres Strait Islander person to write the history of the welfare fund from their perspectives.

We also consider there remains an opportunity to reset the relationship between Aboriginal and Torres Strait Islander Queenslanders and the government and we should initiate a negotiation process for the establishment of that new relationship to occur as soon as possible.

Some of the issues included in such an agreement could include:

- recognition of Aboriginal and Torres Strait Islander peoples as the first peoples of Queensland;
- acknowledgement of our continuing rights and responsibilities as the first people of Queensland, including traditional ownership and connection to land and waters;
- acknowledgement of past acts of dispossession, settlement and discriminatory policies such as the Stolen Wages;
- acknowledgement of the cumulative acts of colonial and state governments since the commencement of colonization which have left an enduring legacy of economic and social disadvantage that many Aboriginal people experience;
- a commitment to address these issues;
- the establishment of a regional network within Queensland based on the experience of the Torres Strait Regional Authority with a 'place-based' approach as agreed at the COAG meeting late last year; and
- a new approach to the settlement of Native Title.

Minister, I believe now that the payment scheme is underway, it is an opportunity to present that scheme and the other acts of reconciliation as a package of measures that gives the government the best opportunity to bring closure to people affected by the stolen wages era. I urge government to engage meaningfully with the Aboriginal and Torres Strait Islander leadership with the aim of producing a document that articulates a new relationship.

Finally, Minister, I believe I speak on behalf of the taskforce when I say thank you for the opportunity you have given us to play a role in bringing some justice to our people here in Queensland.

We now look forward to overseeing the implementation of the scheme but more importantly, seeing our mob get some justice and get some closure.

Yours sincerely

Mick Gooda  
Chairperson  
Stolen Wages Reparations Taskforce

## Executive Summary

### Background

During the Queensland election campaign of early 2015, the State Australian Labor Party Opposition committed to the provision of \$21 million to be distributed to Aboriginal and Torres Strait Islander peoples, and others, including Papuan New Guinea nationals whose wages and savings were confiscated under the various Aboriginal and Torres Strait Islander 'Protection Acts' in force for the greater part of the twentieth century.

In August 2015, the Labor Government appointed the Stolen Wages Reparations Taskforce (the taskforce) to recommend to government, amongst other tasks, how the \$21 million fund provided to implement the election commitment could be distributed.

In its terms of reference, the taskforce was required to hand down its recommendations on eligibility criteria and an assessment process for the Reparations Scheme – Stolen Wages and Savings (the scheme) by November 2015.

The taskforce acutely understood the need for an early resolution of this matter, particularly given the age and ill health amongst those who would be eligible to access the scheme. However, the taskforce came to the conclusion that to do justice to this matter, a comprehensive report could not be presented by that date. This was due to the significance of this issue for the affected people and the magnitude of the consultation process which had to be designed, planned, carried out and analyzed by people who were appointed on a part-time basis.

At a meeting with the Treasurer and Minister for Aboriginal and Torres Strait Islander Partnerships, the Hon. Curtis Pitt, (the Treasurer) on 17 November 2015, the taskforce strongly conveyed this message. In the event the Treasurer and the taskforce agreed that a set of Interim Recommendations would be provided in early December 2015. A copy of those Interim Recommendations provided to Government at that time is at Appendix 8.1.

The Queensland Stolen Wages Reparations Taskforce Report *Reconciling Past Injustice* provides the full set of taskforce recommendations and includes a response to the government's approach to the interim recommendations (as per Appendix 8.1). These interim recommendations included:

- the commencement of a new Reparations Scheme;
- the establishment of a Reparations Review Panel; and
- consideration of further 'Acts of Reconciliation' to provide closure for affected people on this issue.

### Commencement of scheme

On 18 December 2015, the scheme was officially launched in Cairns by the Treasurer and included the following.

1. Continuation of the condition that, to access the Scheme, people had to be living as at 9 May 2002.
2. The age eligibility criteria continued the two tier of payments for:
  - i. people born on or before 31 December 1951; and
  - ii. between 1 January 1952 and 31 December 1959; (this extended the previous end date of 31 December 1956 by three years).

3. Priority payments to the elderly and critically ill.
4. New applicants would be required to sign a 'Deed of Agreement'.
5. The following payments for new eligible applicants:
  - i. \$9200 for people born on or before 31 December 1951; and
  - ii. \$4600 for people born between 1 January 1952 to 31 December 1959.

Together with the amounts paid under the previous reparations process, 'top-up' payments will ensure previous claimants have received cumulative payments of \$9200 or \$4600 respectively.

6. Top-up payments for previously successful claimants will include:
  - i. \$2200 for people born on or before 31 December 1951; or
  - ii. \$1100 for people born between 1 January 1952 to 31 December 1956 (inclusive).
7. Applications to close 16 December 2016.

In addition, government requested that the taskforce provide further information about the proposed:

- Reparations Review Panel; and
- Acts of Reconciliation.

The Reparations Scheme launched in December 2015 was substantially in line with taskforce recommendations. The key differences are discussed below.

## Government response to interim recommendations - areas of concern

### The 'Deed of Agreement'

In its interim recommendations, the taskforce strongly argued that government should not require eligible applicants to the scheme to complete a 'Deed of Agreement' in order to receive payment. Government has promoted the payment of reparations as a gesture of reconciliation. The taskforce believes any gesture of reconciliation is hollow and risks losing meaning in having this requirement; which, if not completed, prevents people from accepting the gesture in good faith. Instead, it adds insult to injury.

The taskforce notes that government provided free independent legal advice to applicants under the previous process and will offer the same to relevant applicants under this new scheme to ensure they are appropriately informed when considering whether to sign the 'Deed of Agreement'. During consultation about the scheme, the taskforce was told many times that people receiving legal advice were informed that if they didn't sign the 'Deed of Agreement' they would not get paid. This is cause for concern about whether the legal advice was appropriate and may have caused people to sign under duress.

### **Top Up Amount:**

In its interim recommendations the taskforce recommended that the 'top up' amounts for people born on or before 31 December 1951, and between 1 January 1952 and 31 December 1956 be \$3000 and \$1500 respectively. These figures were based on the estimated number of new applications and the need to keep scheme payments within the \$21 million amount. The government took a more conservative approach to estimating the number of new applications and determined the 'top up' payments be \$2200 and \$1100.

The taskforce confirms the government's decision to determine the 'top up' amounts of \$2200 and \$1100 respectively to the two age groups.

### **Reparations Review Panel**

Throughout community consultation the taskforce heard that many people were found ineligible for payment under the previous reparations process due to a lack of records to verify their claim. Additionally, people were concerned that this would be an ongoing issue for new claimants and those that were previously found ineligible would continue to be denied justice.

To ensure as many eligible people as possible are able to access the scheme, the taskforce recommended to government the establishment of an independent Reparations Review Panel (the panel) to consider the more complex ineligible applications and to take evidence outside the traditional evidentiary basis.

Included in this report are proposed guidelines (see 8.2) which outline the proposed make up, operation and responsibilities of the panel including its ability to consider oral histories, affidavits and other information that may be sourced outside the range of government records. To further enable the panel to fully consider applications, it is also proposed that it will be able to seek expert advice to help provide context or otherwise interpret the information provided for its consideration.

### **Acts of Reconciliation**

The government, in establishing the scheme, was clear it could not repay the monies owed but should be seen as an act of reparation and reconciliation. Early in the consultation process the taskforce took the view that if this scheme was to provide a modicum of closure for people affected by the oppressive policies of the time, there could be other gestures adopted to support the scheme and tested these at the community consultations.

The taskforce put forward a range of interim recommendations to government in relation to stolen wages legacy issues (see 8.1 Acts of Reconciliation) in addition to its recommendations about the scheme's eligibility criteria and assessment process.

This report explores the legacy issues more fully in Chapter 5 to provide government with a course of action to appropriately progress each, as requested by government in December 2015.

The taskforce particularly notes five key issues for government consideration:

1. immediate closure of the Aborigines Welfare Fund;
2. public acknowledgement of the use of stolen wages and savings to help build Queensland, particularly through the purchase and expansion of hospitals and other infrastructure;
3. scholarships to enable documentation of Queensland's stolen wages and savings history from Aboriginal and Torres Strait Islander perspectives;
4. reframing the relationship between Aboriginal and Torres Strait Islander Queenslanders and government; and
5. divestment of government housing to Aboriginal and Torres Strait Islander peoples.

## Scheme monitoring

With the payments to eligible people now well underway, the taskforce will undertake its monitoring role and oversee the scheme's implementation. The taskforce will bring any issues of concern to government's attention as they arise.

In addition the taskforce proposes particular strategic consultation to seek feedback from individuals and communities to provide a more coherent review of the scheme's implementation. This would enable the taskforce to identify whether there are any recurring issues that may require a more considered response and more comprehensive advice to government to resolve the issue/s.

## Conclusion

Initial time pressure for the taskforce to meet government deadlines caused some concern for taskforce members about whether people affected by stolen wages and savings were given reasonable opportunity to provide input to development of the scheme's eligibility criteria and assessment process. However, the taskforce concluded that it was reasonable to expect that the recurring issues in community meetings and written submissions were a sound reflection of the key concerns among community members. These concerns were taken into account in the recommendations put forward.

Government's response to those interim recommendations was very positive except for the insistence that a 'Deed of Agreement' be maintained. The taskforce welcomes Government's support but as consistently raised, the taskforce believes the requirement of a 'Deed of Agreement' is counterproductive to the intent of the reparations process. To offer a gesture of reconciliation that is conditional upon signing a waiver somewhat diminishes the community's view of government's sincerity.

# 1 Overview

## 1.1 The history

From the late 19th Century, and for the greater part of the 20th Century, the Queensland Government exercised control over all aspects of the lives of people who were subject to the various legislation listed below. This included control over their wages and savings which became known around the state as the stolen wages.

- *Aboriginal Protection and Restriction of the Sale of Opium Act 1897* (as amended from time to time)
- *Aboriginals Preservation and 'Protection Act' 1939*
- *Torres Strait Islander Act 1939*
- *Aborigines and Torres Strait Islanders Affairs Act 1965*
- *Aborigines Act 1971*
- *Torres Strait Islander Act 1971*
- *Aborigines Act and Torres Strait Islanders Amendment Act 1974*
- *Community Services (Aborigines) Act 1984*
- *Community Services (Torres Strait) Act 1984.*

Since 1999, the Queensland Government has undertaken a number of compensation and reparations processes for Aboriginal and Torres Strait Islander peoples who suffered direct disadvantage as a result of these racially discriminatory government practices, such as “stolen wages”, which include the following:

### **The Under Award Wages Compensation Scheme (1999-2002) - Total compensation of \$40.1 million**

Payments of \$7,000 per person were made to people who:

- worked for the department between 1 October 1975 and 29 October 1986;
- were not paid award wages for work they performed; and
- were still alive on 31 May 1999.

### **Mission Workers (2006-2012) - Total compensation of \$5.9 million**

Payments varied from \$3,500 to \$85,000 (average of \$6,923) to people who worked for the churches in Aurukun, Hope Vale, Wujal Wujal, Doomadgee and on Mornington Island:

- between 1 October 1975 and various dates (depending upon transition dates from church control);
- who were not paid award wages for work they performed; and
- who were alive on 31 May 1999.

**Indigenous Wages and Savings Reparations (2002-2010) - \$55.4 million allocated with \$35.5 million distributed as follows:**

- \$7,000 to eligible claimants born on or before 31 December 1951; and
- \$3,500 to eligible claimants born on or between 1 January 1952 and on or before 31 December 1956 who:
  - had their wages or savings controlled under a 'Protection Acts'; and
  - were alive on 9 May 2002.

As mentioned above, of the \$55.4 million allocated to the Indigenous Wages and Savings Reparations 2002-2010, only \$35.5 million was distributed which meant just under \$20 million was left unspent. This amount was then used to establish a trust fund for the Queensland Aboriginal and Torres Strait Islander Foundation (QATSIF). QATSIF was established to provide education scholarships to support Aboriginal and Torres Strait Islander children and young people.

## 1.2 The commitment

During the Queensland election campaign of early 2015, the then State Australian Labor Party Opposition committed to the provision of \$21 million to be distributed to Aboriginal and Torres Strait Islander peoples, and others, including Papuan New Guinea nationals, whose wages and savings were confiscated under the various Aboriginal and Torres Strait Islander 'Protection Acts' in force for the greater part of the twentieth century.

This commitment responds to community concerns that probable eligible people have been excluded from accessing reparations payments; that many did not apply in the previous rounds of reparations; and that the remainder of money allocated under previous schemes was not distributed directly to the community.

The government framed the provision of this \$21 million as a gesture of reparation and reconciliation and has allocated funding from which payments will be made until closing of the scheme in June 2018.

## 1.3 The Stolen Wages Reparations Taskforce

In August 2015 the Queensland Government established the Stolen Wages Reparations Taskforce (the taskforce) to recommend to government how the \$21 million election commitment could be distributed.

The taskforce is made up of Aboriginal and Torres Strait Islander peoples from across Queensland who have been appointed for a term of three years. The taskforce responsibilities are to:

- make recommendations on the scope and eligibility criteria of the Queensland Government Reparations Scheme within the \$21 million funding envelope;
- consult with affected Aboriginal and Torres Strait Islander communities between September and November 2015;
- recommend an application, assessment and payment process by November 2015;
- receive and consider regular reports on the progress and outcomes of the Reparations Scheme until its conclusion in 2018; and
- provide advice to the Reparations Unit on any implementation issues that arise and possible solutions throughout the operation of the Reparations Scheme.

## Reporting

The taskforce reports to the Treasurer, Minister for Aboriginal and Torres Strait Islander Partnerships, Minister for Sport, Mr Curtis Pitt, through the chairperson. The taskforce was required to hand down its recommendations on eligibility criteria and an assessment process for the Reparations Scheme by November 2015. The format for this report was determined by the chairperson.

The Taskforce members are:

Mr Mick Gooda (Chair)	Ms Pauline Ah Wang – Thursday Island
Mr John Anderson – Brisbane	Ms Gail Barry – Townsville
Ms Rosaline Bourne – Mackay	Mr Morris Cloudy –Townsville
Ms Pamela Hegarty – Rockhampton	Mr Raymond Sambo – Cairns
Mr Marshall Saunders – Brisbane	Ms Vivienne Schwartz – Rockhampton
Mr Thomas Sebasio – Brisbane	Ms Viola Sheridan – Brisbane.

## 2 Community consultations

### 2.1 Overview

Community consultations were undertaken by the taskforce across Queensland from September to November 2015, with individual taskforce members primarily responsible for consultation within their home regions. The underlying aim of the consultations was to give as many people as possible the opportunity to contribute to how the Reparations Scheme would work.

These 'opportunities' included community and individual meetings, written submissions and many phone conversations, mainly through a free call 1800 number where more than 1200 people made contact with the Reparations Unit.

### 2.2 Community meetings

#### 2.2.1 Summary of meetings

Taskforce members met with over 1100 Aboriginal and Torres Strait Islander peoples around the state with more than 50 community meetings taking place in the following areas:

Atherton	Aurukun	Badu	Boigu	Bowen
South Brisbane	Caboolture	Cairns*	Cherbourg	Cunnamulla
Dalby	Darnley	Emerald	Gladstone	Goodna
Gordonvale	Gympie	Horn Island	Inala	Ingham
Innisfail	Ipswich	Kuranda	Logan	Mackay*
Mapoon	Mareeba	Maryborough	Mer	Mitchelton
Mossman	Mossman Gorge	Napranum	Palm Island*	Ravenshoe
Rockhampton	Roma	Saibai	Sarina	St Pauls/Kubin
St George	Thursday Island*	Toowoomba*	Aitkenvale	Weipa
Wellington Point	Garbutt	Yarrabah*	Zillmere	Mooloolaba

\*more than one meeting held

### 2.3 Other key stakeholder engagement

Mr Mick Gooda, Chair of the taskforce, also spoke on the Reparations Scheme at the Local Government Indigenous Leadership Forum held in Toowoomba on 19 August 2015, with thirteen Mayors and numerous councilors in attendance.

### 2.4 Written submissions

The taskforce also invited feedback by written submission from the community with an original due date of 30 October 2015, which after intense interest, was extended to 20 November 2015.

The submission process invited ideas from the community about:

- what the eligibility criteria should be for the Stolen Wages Reparations Scheme; and
- how applications to the Stolen Wages Reparations Scheme should be assessed.

Over 500 submissions were received by taskforce members at community consultations, by mail, and through the reparations email mailbox. Mailbox operations included responses to queries and requests for information, with a total of over 1500 interactions logged by the closing date of 20 November 2015.

Further, a register of contact details from calls received through the 1800 number<sup>3</sup> also generated over 1200 interactions with the community during the consultation period, which included responding to queries and mailing out information updates, submission forms and/or application forms as the process progressed.

#### 2.4.1 Summary of consultations - key themes

Community feedback by submission provided the taskforce with a range of ideas and processes for the distribution of the \$21 million. Consistent themes to emerge from consultations were that:

- a. the \$21 million is not enough money and that the figure of \$500 million should be on offer for claimants to receive what they are rightly owed;
- b. sick and elderly claimants within this group should be prioritised, along with children of the deceased due to the hardship that they endured;
- c. a top-up payment should be provided to previously successful claimants;
- d. beneficiaries should be entitled to receive a top-up payment on behalf of their parents;
- e. the 'Deed of Agreement' or indemnity that community members were asked to sign under the IWSR Scheme process was coercive and should not be repeated; and
- f. while it is understood the new \$21 million fund 'replaces' the funding provided to establish QATSIF in 2010, there is still broad community anger about the use of the remaining monies in that way and general belief that the original allocation should have been provided to community at that time.

Apart from the quantum of funds offered by the government for the scheme, the issue which caused the most discussion was the survival date of 9 May 2002. The most obvious concern was for parents, grandparents and great grandparents who passed before that date – the people who suffered the most would miss out on any payment.

Despite the obvious contention around that survival date, most meetings could not come to an agreement on a 'new' appropriate survival date. In the end, the great majority of meetings decided to leave the survival date at 9 May 2002.

In this final report, it will be recommended to maintain the survival date at 9 May 2002.

During consultations, additional issues were raised with taskforce members as matters of concern including some put forward as a means for government to provide further reparation in a non-monetary form. These included:

- g. acknowledgement of Aboriginal and Torres Strait Islander people's monies being used to build government infrastructure;
- h. support for burials, including upgrades and appropriate care of all burial places to ensure each person's gravesite is respectfully acknowledged and signposted;
- i. a new approach to native title;
- j. dual place naming; and
- k. handover of Queensland Government housing in view of rents paid.

## 3 Reparations Scheme - Stolen Wages and Savings

### 3.1 Interim recommendations

On 3 December 2015, the taskforce provided Interim Recommendations to Government (see Appendix 8.1). Most recommendations which related to the commencement and structure of the scheme, were adopted by government.

### 3.2 The scheme

Following consideration of the interim recommendations government determined that the Reparations Stolen Wages and Savings Scheme would include the following.

1. Continuation of the condition that, to access the scheme, people had to be living as at 9 May 2002.
2. The age eligibility criteria continued the two tier of payments for:
  - i. people born on or before 31 December 1951, and
  - ii. between 1 January 1952 and 31 December 1959; (this extended the previous end date of 31 December 1956 by three years).
3. Priority payments to the elderly and critically ill.
4. New applicants would be required to sign a 'Deed of Agreement'.
5. The following payments for new eligible applicants:
  - i. \$9200 for people born on or before 31 December 1951; and
  - ii. \$4600 for people born between 1 January 1952 and 31 December 1959.

Together with the amounts paid under the previous reparations process, 'top-up' payments will ensure previous claimants have received cumulative payments of \$9200 or \$4600 respectively.

6. Top-up payments for previously successful claimants will include:
  - i. \$2200 for people born on or before 31 December 1951; or
  - ii. \$1100 for people born between 1 January 1952 to 31 December 1956 (inclusive).
7. Applications to close 16 December 2016.

This report recommends the continuation of the scheme as commenced at 18 December 2015. In making this recommendation, the taskforce indicates acceptance of the government's decisions on the quantum of top-up amounts and the closing date for applications, while noting these decisions vary from its interim recommendations.

In its Interim Recommendations the taskforce strongly argued that government should not require eligible applicants to the scheme to complete a 'Deed of Agreement' in order to receive payment. Government has promoted the payment of reparations as a gesture of reconciliation. The taskforce believes that any gesture of reconciliation is hollow and risks losing meaning in having this requirement; which if not completed, prevents people from accepting the gesture in good faith. Instead, it adds insult to injury.

During consultation about the scheme, the taskforce was told many times that people receiving legal advice were informed that if they didn't sign the 'Deed of Agreement', they would not get paid. This is cause for concern about whether the legal advice was appropriate and if it caused people to sign under duress.

### **Recommendation 1**

In relation to the Stolen Wages Reparations Scheme, the taskforce recommends the following.

1. Continuation of the condition that, to access the scheme, people had to be living as at 9 May 2002.
2. The age eligibility criteria continued the two tier of payments for:
  - i. people born on or before 31 December 1951, and
  - ii. between 1 January 1952 and 31 December 1959; (this extended the previous end date of 31 December 1956 by three years).
3. Priority payments to the elderly and critically ill.
4. The following payments for new eligible applicants:
  - i. \$9200 for people born on or before 31 December 1951; and
  - ii. \$4600 for people born between 1 January 1952 and 31 December 1959.

Together with the amounts paid under the previous reparations process, 'top-up' payments will ensure previous claimants have received cumulative payments of \$9200 or \$4600 respectively.

5. Top-up payments for previously successful claimants will include:
  - i. \$2200 for people born on or before 31 December 1951; or
  - ii. \$1100 for people born between 1 January 1952 to 31 December 1956 (inclusive).
6. Applications to close 16 December 2016.

## **Recommendation 2**

Government remove the requirement that people sign a 'Deed of Agreement' to access payment from the scheme and void the deeds signed by previous claimants.

In addition to approving the commencement of the scheme in December 2015, government requested that the taskforce provide further information about the proposed:

- Reparations Review Panel; and
- Acts of Reconciliation.

These are detailed further in Chapter 4 and Chapter 5 of this report.

### **3.3 Acknowledging the past**

To encourage applications to the scheme and create awareness of Queensland's underlying history of government control over the lives of Aboriginal and Torres Strait Islander peoples and their personal experiences of that control, Government launched the 'Acknowledging the past' media campaign in March 2016.

The taskforce commends government on its educational approach to the scheme's advertising and has offered its full endorsement of the campaign. In addition, some taskforce members have indicated a willingness to participate in the campaign by sharing their stories and the impact that government control over their wages and savings had on their lives.

## 4 Reparations Review Panel

### 4.1 Panel establishment

Throughout community consultation the taskforce heard that many people were found ineligible for payment under the previous reparations process due to a lack of records to verify their claim. Additionally people were concerned that this would be an ongoing issue for new claimants and those that were ineligible before would continue to be denied justice.

The taskforce therefore recommended to government the establishment of a review panel, much like the assessment panel established under the New South Wales Aboriginal Trust Fund Repayment Scheme (ATFRS). The ATFRS Panel assessed claims and recommended whether Aboriginal people and/or their descendants should be paid the money they believed were owed to them.

A Queensland Reparations Review Panel (the panel) would similarly make recommendations about scheme eligibility. However, due to the volume of applications compared to the New South Wales Scheme, the panel would only be responsible for considering the more complex applications where government records are insufficient and unable to conclusively prove whether a person's wages or savings were controlled by government.

The panel would provide a secondary assessment process, independent of the departmental assessments completed by the Reparations Unit.

The panel would include up to five people from across Queensland that have an awareness of the effect of past Government control.

The panel will consist of up to five Aboriginal and Torres Strait Islander peoples from across Queensland and collectively have:

- legal expertise;
- knowledge of the Queensland history of stolen wages and savings; and
- demonstrated ability to sensitively and competently communicate with Aboriginal and Torres Strait Islander Queenslanders.

### 4.2 Panel operation

The Reparations Unit (the Unit) will assess all applications in the first instance. Where the unit is unable to prove whether there was government control of a person's wages or savings because of inconclusive records, the unit may forward the application to the Reparations Review Panel for consideration. These would particularly include applications where although the records are not definitive, they indicate some probability of government control.

The unit will also re-assess applications previously found ineligible under the previous reparations process (the 2002 Indigenous Wages and Savings Reparations Scheme) and similarly forward any that remain inconclusive, to the panel for consideration.

To enable the panel to more broadly consider applications it would have the ability to:

- a. consider oral histories, affidavits, statutory declarations and other information that may be sourced outside the range of government records; and
- b. seek expert advice to help provide context or otherwise interpret the information provided for their consideration.

### 4.3 Panel considerations

The scope of the Reparations Scheme is restricted to people whose wages and savings were controlled in accordance with the provisions of the legislation administered by the predecessors of the Department of Aboriginal and Torres Strait Islander Partnerships (or its local agents, for example, missions, local protectors, local Police Officers), collectively known as the 'Protection Acts'.

Additional considerations will include:

- a. the length of time that has elapsed and the difficulty claimants may have in substantiating their applications as a result;
- b. any deficiencies in the official written records relating to the application; and
- c. the importance of oral evidence in the absence of written records and in the cultural traditions of Aboriginal and Torres Strait Islander peoples.

At the fourth taskforce meeting in Brisbane on 16-17 February, taskforce members devoted considerable time to the development of guidelines to determine the operations of the panel.

#### **Recommendation 3**

Government establish a Reparations Review Panel by the end of April 2016 to enable prompt consideration of relevant ineligible applications from the previous IWSR process and the current scheme to ensure as many Aboriginal and Torres Strait Islander people as possible have access to the scheme to seek justice for past wrongs.

#### **Recommendation 4**

The Reparations Review Panel be implemented in accordance with the Reparations Review Panel Guidelines (see 8.2).

## 5 Acts of Reconciliation

### 5.1 Closure

On the basis that the reparations process should provide closure for Aboriginal and Torres Strait Islander people, the taskforce put forward a range of interim recommendations to government in relation to stolen wages legacy issues (see 8.1 Acts of Reconciliation) on 3 December 2015.

On 16 and 17 February 2016, the taskforce met in Brisbane and considered these issues further. This included some reframing of the issues which are discussed in more detail below to provide government with a course of action to progress each appropriately.

### 5.2 The Aborigines Welfare Fund

The Aborigines Welfare Fund was originally included in the list of issues recommended as part of reframing the relationship between Aboriginal and Torres Strait Islander people and the Queensland Government (5.4). However after further consideration the taskforce decided it should be dealt with separately and independent of the other discussion as it relates directly to the issue of stolen wages and savings and should be progressed as a matter of urgency.

The Aborigines Welfare Fund (the fund) was set up in 1943 for the 'general benefit of Aboriginal people'<sup>1</sup>.

Until 1966, a percentage of Aboriginal workers' wages were put into the Fund. Workers either had 2.5 per cent, 5 per cent or 10 per cent of their wages taken, depending on family circumstances and their location.

Other money that went into the fund included:

- a. surplus interest earned from investment of money in the Queensland Aboriginals Account (after paying savings bank interest on individual accounts);
- b. money from the operations of retail stores, cattle, farming and other activities conducted on settlements (now Aboriginal Deed of Grant in Trust or DOGIT communities); and
- c. unclaimed money from the estates of deceased or missing Aboriginal people.

In June 2008, there was \$10.8 million in the fund (which had been earning interest since it was frozen in 1993).

In November 2008, \$10.8 million from the Aborigines Welfare Fund, along with remaining unspent funds from the Indigenous Wages and Savings Reparations process were used to establish the Queensland Aboriginal and Torres Strait Islander Foundation (QATSIF). The funds are held in trust by the Public Trustee. QATSIF uses the interest earned on the funds to provide education scholarships to Aboriginal and Torres Strait Islander young people.

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<sup>1</sup> <http://www.qld.gov.au/atsi/cultural-awareness-heritage-arts/history-indigenous-wages/index.html>

Additionally, the taskforce is aware that the Department of Aboriginal and Torres Strait Islander Partnerships (the department) has retained some monies within the Aborigines Welfare Fund to pay out deceased estates which may not have been appropriately distributed under previous governments.

The taskforce believes remaining welfare fund monies should be committed to provide for relevant recommendations under the scheme, including memorials to acknowledge the use of stolen wages towards state infrastructure, and scholarships to write the history of stolen wages in Queensland. The taskforce is aware the department will be required to retain an amount of \$100,000 to continue to address the deceased estates' work.

#### **Recommendation 5**

That the Aborigines Welfare Fund be closed immediately and that:

- a. remaining monies be committed to implementation of recommendations 6, 10 and 11; and
- b. that the department be appropriately resourced to finalise the outstanding deceased estates by the end of the Reparations Scheme in 2018.

### **5.3 Acknowledging the use of stolen wages**

Acknowledging the use of stolen wages was originally included in the list of issues recommended as part of reframing the relationship between Aboriginal and Torres Strait Islander people and the Queensland Government (5.4); however, after further consideration the taskforce decided it should be dealt with separately and independent of the other discussion as it relates directly to the issue of stolen wages and savings and should be progressed as a matter of priority.

Historical government records<sup>2</sup> show that Aboriginal and Torres Strait Islander peoples' wages and savings were regularly used by the Department of Native Affairs (and its successor agencies responsible for Aboriginal and Torres Strait Islander peoples) to offset government and departmental revenue by providing debentured loans to other agencies and corporate bodies. In doing so, it also enabled the development of Queensland through the building of infrastructure across the state, particularly the establishment and expansion of hospitals (see Appendix 8.3).

Agencies that regularly received loans included:

- a. the State Electricity Commission (SEC);
- b. the Southern Electricity Authority of Queensland (SEA);
- c. Local Government Councils; and
- d. Hospital Boards.

Records also show that the number of loans funded each financial year specifically depended on the amount of money available in Aboriginal and Torres Strait Islander accounts.

## 5.4 Reframing the relationship between Aboriginal and Torres Strait Islander people and the Queensland Government

### Recommendation 6

Negotiation between DATSIP and the Department of Health (and other relevant agencies) to develop a strategy to formally acknowledge the financial contribution and labour of Aboriginal and Torres Strait Islander Queenslanders to the growth of Queensland. The strategy should include:

- a. formal announcement of the statewide project;
- b. development of a plaque or other monument at each location in consultation with local Aboriginal and or Torres Strait Islander people; and
- c. local events to provide public recognition, led by local Aboriginal and or Torres Strait Islander people.

#### 5.4.1 Overview

During consultation, the taskforce heard many concerns from Aboriginal and Torres Strait Islander people about a range of issues unrelated to stolen wages. However, these issues are important to community and they collectively impact Aboriginal and Torres Strait Islander peoples' participation in the broader community, socially and economically.

#### 5.4.2 Issues for discussion

In the Interim Recommendations made to government in December 2015, the taskforce highlighted the need for reframing the relationship between Aboriginal and Torres Strait Islander Queenslanders and government.

The following is some of the key issues the taskforce suggests for starting the conversation with Aboriginal and Torres Strait Islander Queenslanders about the best way forward:

- a. handover of all Aboriginal and Torres Strait Islander land held in trust by the state government;
- b. the repatriation of cultural property to rightful places;
- c. the upgrading, provenancing and appropriate care of all burial places to ensure each person's grave site is respectfully acknowledged and signposted;
- d. a new approach to the settlement of Native Title;
- e. an emphasis on dual place naming; and
- f. Social Justice Commissioner position— similar to the Federal Social Justice Commissioner, which would report to Parliament on an annual basis as one measure to promote human rights standards and ensure that injustices such as the stolen wages are never repeated.

### **Recommendation 7**

Negotiation of a document that reframes the relationship between Aboriginal and Torres Strait Islander peoples and the Queensland Government, with actions including:

- a. government convene a meeting of peak Queensland Aboriginal and Torres Strait Islander organisations (including taskforce representation) to begin discussions; and
- b. government convene further discussions at the local level with Aboriginal and Torres Strait Islander peoples to identify local solutions.

## **5.5 Divestment of government housing**

### **5.5.1 Handover**

The taskforce is aware that government is undertaking a number of housing strategies to increase home ownership among Aboriginal and Torres Strait Islander peoples on discrete communities and supports the work in this area.

However, this recommendation particularly relates to undertakings people have indicated they or their ancestors received from government when becoming tenants of the then Queensland Government Aboriginal Housing Program in the 1970s. The taskforce was constantly told that people were of the understanding that their rent would contribute to their eventual ownership of the home in which they were living. Aboriginal and Torres Strait Islander families, in good faith, left their communities and established homes to occupy government housing in mainstream areas as part of government's strategy to further integrate Indigenous Queenslanders into mainstream society.

The taskforce notes that commonwealth funds provided for assistance to Aboriginal people, including housing, were managed through the welfare fund in the later period of its operations. In addition, government records show that the Director of Native Affairs provided 'interest-free' loans from the fund to at least some Aboriginal families in parts of Queensland for erection of the homes mentioned above. The department then worked with the Queensland Housing Commission to purchase allotments for the construction of the homes.

The taskforce believes the undertakings provided to families tenanted under the then Queensland Government Aboriginal Housing Program in the 1970s is comparable to the history of the 'Katter leases' on discrete Aboriginal and Torres Strait Islander communities. The 'Katter leases' refers to more than 200 lease applications which were lawfully approved under the *Aborigines and Torres Strait Islanders (Land Holding) Act 1985* but were never finalised.

#### **Recommendation 8**

Government prioritise resolution of the 'Katter leases' to ensure affected families are justly and appropriately provided the housing or land they are entitled to.

#### **Recommendation 9**

Government prioritise divestment of government land and housing to families that have tenancy in houses provided under the Queensland Government Aboriginal Housing Program in the 1970s.

## **5.6 Documenting history from Aboriginal and Torres Strait Islander perspectives**

### **5.6.1 Scholarships**

The taskforce notes and appreciates the groundbreaking research by Dr Ros Kidd and her extensive efforts to seek justice for Aboriginal and Torres Strait Islander Queenslanders and to increase awareness about stolen wages in Queensland and Australia-wide. However there are few stolen wages histories written from the perspective of Aboriginal and/or Torres Strait Islander authors. The taskforce believes financial support should be provided to an Aboriginal person and a Torres Strait Islander person to write the history of the stolen wages from Indigenous perspectives.

#### **Recommendation 10**

Government provide a scholarship for an Aboriginal person to document Aboriginal peoples' experiences and perspectives of government control of wages and savings under the 'Protection Acts'.

#### **Recommendation 11**

Government provide a scholarship for a Torres Strait Islander person to document Torres Strait Islander peoples' experiences and perspectives of government control of wages and savings under the 'Protection

## **5.7 QATSIF**

### **5.7.1 Community views**

Community discussion with the taskforce during consultation about reparations almost always inevitably raised the issue of past reparations monies that were used by government to establish the Queensland Aboriginal and Torres Strait Islander Foundation (QATSIF).

Although it was explained that the \$21 million announced for reparations is replacement for the money that was used to establish QATSIF, community disagreement and anger about the original decision could not be appeased. Many people still felt that their money had again been stolen by government and should still be given back.

### 5.7.2 Retention of the Queensland Aboriginal and Torres Strait Islander Foundation.

Discussion among taskforce members was also conflicted over the establishment of QATSIF. Community and taskforce members did not disagree with the need for support for Aboriginal and Torres Strait Islander children to complete their schooling. However it was felt that the money used to establish QATSIF was owed to the people that earned it and should have been provided to them.

Regardless, the taskforce overall agreed that QATSIF now plays an important role in education and that it should be supported by government to continue operating appropriately.

#### **Recommendation 12**

Government ensure QATSIF secretariat is appropriately and recurrently resourced to maintain its operation and ability to continue supporting Aboriginal and Torres Strait Islander children with their secondary education.

## 6 Next steps

### 6.1 Scheme monitoring

In addition to advising government on the eligibility criteria and assessment process for the scheme, taskforce responsibilities include ongoing oversight of the scheme's implementation.

The responsibilities identified in the Terms of Reference include that the taskforce should:

- a. receive and consider regular reports on the progress and outcomes of the Reparations Scheme until its conclusion in 2018; and
- b. provide advice to the Reparations Unit on any implementation issues that arise and possible solutions throughout the operation of the Reparations Scheme.

Since implementation of the scheme in December 2015, taskforce members have continued to receive feedback and inquiries from community members which they have either responded to directly or referred to the Reparations Unit.

To supplement this intermittent contact with community and regular operational reports from the Reparations Unit, the taskforce noted a more strategic approach is required to seek community feedback and to properly review the community's experience of implementation of the scheme. This would enable the taskforce to better advise government on the scheme's outcomes and any recurring issues that may require a more considered response and more strategic advice to government to resolve the issue/s.

#### **Recommendation 13**

In relation to taskforce oversight of the implementation of the scheme, the taskforce recommends:

- a. surveying a sample set of applicants; and
- b. targeted community consultation led by a small taskforce working group to seek community views on the Reparations Scheme.

## 7 Recommendations

This report provides the full set of taskforce recommendations and includes a response to the government's approach to the Interim Recommendations.

### **Final taskforce recommendations:**

#### **Recommendation 1**

In relation to the Stolen Wages Reparations Scheme, the taskforce recommends the following.

1. Continuation of the condition that, to access the scheme, people had to be living as at 9 May 2002.
2. The age eligibility criteria continued the two tier of payments for:
  - i. people born on or before 31 December 1951, and
  - ii. between 1 January 1952 and 31 December 1959 (this extended the previous end date of 31 December 1956 by three years).
3. Priority payments to the elderly and critically ill.
4. The following payments for new eligible applicants:
  - i. \$9200 for people born on or before 31 December 1951; and
  - ii. \$4600 for people born between 1 January 1952 and 31 December 1959.

Together with the amounts paid under the previous reparations process, 'top-up' payments will ensure previous claimants have received cumulative payments of \$9200 or \$4600 respectively.

5. Top-up payments for previously successful claimants will include:
  - i. \$2200 for people born on or before 31 December 1951; or
  - ii. \$1100 for people born between 1 January 1952 to 31 December 1956 (inclusive)
6. Applications to close 16 December 2016.

#### **Recommendation 2**

Government remove the requirement that people sign a 'Deed of Agreement' to access payment from the scheme and void the deeds signed by previous claimants.

#### **Recommendation 3**

Government establish a Reparations Review Panel by the end of April 2016 to enable prompt consideration of relevant ineligible applications from the previous IWSR process and the current scheme to ensure as many Aboriginal and Torres Strait Islander people as possible have access to the scheme to seek justice for past wrongs.

#### **Recommendation 4**

The Reparations Review Panel be implemented in accordance with the Reparations Review Panel Guidelines (see 8.2).

#### **Recommendation 5**

That the Aborigines Welfare Fund be closed immediately and that:

- a. remaining monies be committed to implementation of recommendations 6, 10 and 11; and
- b. that the Department be appropriately resourced to finalise the outstanding deceased estates by the end of the Reparations Scheme in 2018.

#### **Recommendation 6**

Negotiation between DATSIP and the Department of Health (and other relevant agencies) to develop a strategy to formally acknowledge the financial contribution and labour of Aboriginal and Torres Strait Islander Queenslanders to the growth of Queensland. The strategy should include:

- a. formal announcement of the statewide project;
- b. development of a plaque or other monument at each location in consultation with local Aboriginal and or Torres Strait Islander people; and
- c. local events to provide public recognition, led by local Aboriginal and or Torres Strait Islander people.

#### **Recommendation 7**

Negotiation of a document that reframes the relationship between Aboriginal and Torres Strait Islander peoples and the Queensland Government, with actions including:

- a. government convene a meeting of peak Queensland Aboriginal and Torres Strait Islander organisations (including taskforce representation) to begin discussions; and
- b. government convene further discussions at the local level with Aboriginal and Torres Strait Islander peoples to identify local solutions.

#### **Recommendation 8**

Government prioritise resolution of the 'Katter leases' to ensure affected families are justly and appropriately provided the land and housing they are entitled to.

#### **Recommendation 9**

Government prioritise divestment of government land and housing to families that have tenancy in houses provided under the Queensland Government Aboriginal Housing Program from the 1970s.

### **Recommendation 10**

Government provide a scholarship for an Aboriginal person to document Aboriginal peoples' experiences and perspectives of government control of wages and savings under the 'Protection Acts'.

### **Recommendation 11**

Government provide a scholarship for a Torres Strait Islander person to document Torres Strait Islander peoples' experiences and perspectives of government control of wages and savings under the 'Protection Acts'.

### **Recommendation 12**

Government ensure QATSIF secretariat is appropriately and recurrently resourced to maintain its operation and ability to continue supporting Aboriginal and Torres Strait Islander children with their secondary education.

### **Recommendation 13**

In relation to taskforce oversight of the implementation of the scheme, the taskforce recommends:

- a. surveying a sample set of applicants; and
- b. targeted community consultation led by a small taskforce working group to seek community views on the Reparations Scheme.

## 8 Appendices

### 8.1 2015 Interim Stolen Wages Reparations Taskforce Recommendations

1. The 2015 Stolen Wages Reparations Scheme (the 2015 Scheme) should commence in December 2015 and include the following elements.

- a) Eligibility for persons to receive payments under the 2015 Scheme is subject to the following criteria:
  - i. had wages and/or savings controlled under a 'Protection' Act<sup>1</sup>;
  - ii. were alive as at 9 May 2002; and
  - iii. were born on or before 31 December 1959.
- b) a Review Panel comprised of respected Aboriginal persons and Torres Strait Islander persons be established to receive extraordinary or complex applications and assess other supporting evidence to determine eligibility. Examples of 'other' evidence may include:
  - i. oral submissions;
  - ii. sworn affidavits as supporting evidence; and
  - iii. video submissions.

The Review Panel is to assess such applications and objectively consider all probabilities including natural and social justice in making a recommendation to the Minister.

- c) Applications subject to the above criteria be invited up to 27 May 2017, which is the 50th anniversary of the 1967 Referendum, after which date the scheme will close to applications.
- d) Persons over 70 years of age or those who are seriously ill to be given priority for assessment and subsequent payment if eligible.
- e) All applications to be assessed using a new methodology developed to administer the 2015 Scheme criteria with the following processes to commence immediately and simultaneously:
  - i. reassessment of ineligible claims: Under the 2002 Indigenous Wages and Savings Reparation (IWSR) Scheme ineligible claims be re-assessed against the 2015 Scheme criteria and its related assessment methodology with full reparation payment be made to applicants assessed as eligible, that is one of either payment under the 2002 IWSR plus the respective 'top up' amount under the 2015 Scheme;
  - ii. new applications: A call for applications to be assessed against the 2015 Scheme criteria;
  - iii. top up: The preferred option for a 'top-up' payment of \$3000 and \$1500 to be paid respectively to applicants who received either \$7000 or \$3500 under the 2002 IWSR.
- f) beneficiaries of any eligible person under the 2002 IWSR and 2015 Scheme since deceased may submit an application on behalf of the deceased person to receive any payment due, including any 'top-up' amount;
- g) a 'Deed of Release' not be required to receive an *ex gratia* payment; and
- h) Other Acts of Reconciliation described below that are considered to be meritorious, respectful, just and progressive in righting the wrongs of the past and resetting the relationship with Aboriginal and Torres Strait Islander Queenslanders.

<sup>1</sup> *Aboriginal Protection and Restriction of the Sale of Opium Act 1897 (as amended from time to time); Aborigines Preservation and 'Protection Act' 1939; Torres Strait Islander Act 1939; Aborigines and Torres Strait Islanders Affairs Act 1965; Aborigines Act 1971; Torres Strait Islander Act 1971; Aborigines Act and Torres Strait Islanders Amendment Act 1974; Community Services (Aborigines) Act 1984; Community Services (Torres Strait) Act 1984*

## 8.1 Acts of Reconciliation

During the September–November Consultation phase of the 2015 Stolen Wages Reparations Scheme the issue of the amount of funds available for distribution – the \$21 million – was raised in almost every community meeting. Mostly, comments were centred on the inadequacy of the amount on offer when compared to amounts taken from people over the many years of operation of the Aborigines Welfare Fund. The taskforce is aware that the scheme was never meant to fully repay people what they were owed but was intended as a gesture of reparation and reconciliation.

Another view consistently presented at the consultation meetings was that what most people wanted was closure on this very traumatic part of Queensland's history and that the 2015 Scheme presented the opportunity to provide that closure. There was a view that every time this issue was raised, including in the current process, it meant reliving the treatment that people were subject to when they were restricted to those old missions and had their wages and savings confiscated, along with the associated trauma.

Community consultation feedback raised other suggested gestures that might be considered as part of a package to bring the closure that so many are seeking.

The taskforce supports this concept and together with the recommendations for the distribution of the \$21 million, proposes a number of Acts of Reconciliation as a package that can be presented to Aboriginal and Torres Strait Islander Queenslanders to provide some closure.

Therefore it is further recommended that Government endorse the following approach:

1. Negotiation of a document to reframe the relationship between Aboriginal and Torres Strait Islander peoples and the Queensland Government which could include:
  - i. acknowledgement of the use of stolen wages' money to build government infrastructure, such as the Redcliffe and other hospitals;
  - ii. handover of all Aboriginal and Torres Strait Islander land held in trust by the state government;
  - iii. the repatriation of cultural property to rightful places;
  - iv. the upgrading, provenancing and appropriate care of all burial places to ensure each person's grave site is respectfully acknowledged and signposted;
  - v. a new approach to the settlement of Native Title;
  - vi. an emphasis on dual place naming;
  - vii. a Social Justice Commissioner position— similar to the Federal Social Justice Commissioner, which would report to Parliament on an annual basis as one measure to promote human rights standards and ensure that injustices such as the Stolen Wages are never repeated; and
  - viii. closure of the Aborigines Welfare Fund by June 2018.
2. A Government housing hand over—to eventually count the rent paid towards houses being handed over to tenants as many people spoke of the undertakings given when becoming tenants of the Queensland Government Aboriginal Housing Program in the 1970s.
3. Scholarships provided for an Aboriginal person and Torres Strait Islander person to write the history of the Stolen Wages from an Indigenous perspective.
4. Retention of the Queensland Aboriginal and Torres Strait Islander Foundation.

## Appendix 8.2 Reparations Review Panel Guidelines



# GUIDELINES

## Reparations Review Panel

“I’m not telling you it’s going to be easy; I’m telling you it’s going to be worth it.”  
- Art Williams -

Reparations Unit  
[reparations@datasip.qld.gov.au](mailto:reparations@datasip.qld.gov.au)

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# 1 Background

- 1.1. In the 2015–16 Queensland Budget, the government provided for a \$21 million fund to address the legacy issue of government control of Aboriginal and Torres Strait Islander Queenslanders' wages and savings by previous governments under the 'Protection Acts'. The provision of this funding represents part fulfilment of an election commitment, which also included the establishment of a special taskforce of stakeholders to make recommendations on the eligibility criteria and an assessment process for a Reparations Scheme to distribute the \$21 million.
- 1.2. On 17 August 2015, the government established the 12-person Taskforce, including the Chair, Mr Mick Gooda, Aboriginal and Torres Strait Islander Social Justice Commissioner, Australian Human Rights Commission, and 11 Taskforce members chosen from across Queensland by a community nomination process.
- 1.3. During 2015 the Stolen Wages Reparations Taskforce (the Taskforce) undertook state-wide community consultation (via community meetings and written submissions) to inform its recommendations to government about the eligibility criteria and assessment process.
- 1.4. On 3 December 2015, the Taskforce made recommendations to government about the eligibility criteria and assessment process for the Reparations Scheme, including the establishment of a Reparations Review Panel (the Panel) as part of the reassessment process for applications found ineligible under the Indigenous Wages and Savings Reparations process (IWSR).
- 1.5. On 7 December 2015, Government responded to the recommendations and requested further information about the Panel process. These guidelines form part of that further information.
- 1.6. On 18 December 2015, *The Reparations Scheme – Stolen Wages and Savings* (the Scheme) was officially launched by the Hon. Curtis Pitt, Treasurer, Minister for Aboriginal and Torres Strait Islander Partnerships (the Minister).
- 1.7. These Guidelines are not binding upon the Director-General of DATSIP (the Director-General), the Deputy Director-General, the Taskforce, the Reparations Unit, the Panel or the Minister and either the Director-General, the Deputy Director-General, the Taskforce, the Reparations Unit, the Panel or the Minister may depart from these Guidelines if they are satisfied that it is in the interests of justice and equity to do so. Where there is a departure, it and the reasons for it should be recorded for purposes of transparency.
- 1.8. The Scheme will remain an evidence-based scheme and the Panel will be able to take into account non-documentary evidence including statutory declarations and oral evidence when reviewing applications.
- 1.9. The Panel is part of the Scheme; individual payments recommended by the Panel will be paid out of the \$21 million allocated to the Scheme for all reparations payments (including top-ups and payment of successful new applications):
  - 1.9.1. All payments recommended by the Panel will accord with the Scheme's predetermined payments which take into consideration
    - 1.9.1.1. whether a person previously received reparations under the Indigenous Wages and Savings Reparations (IWSR) process; and
    - 1.9.1.2. the applicant's date of birth (or the date of birth of the claim subject in the case of Next-of-Kin applications)
  - 1.9.2. the Panel recommendations shall specifically align with the sums offered for 'new applications':
    - 1.9.2.1. \$9,200 for people born on or before 31 December 1951; and
    - 1.9.2.2. \$4,600 for people born between 1 January 1952 and 31 December 1959.

## 2 The Taskforce

- 2.1 The Taskforce members are:
- |                       |                      |
|-----------------------|----------------------|
| Mr Mick Gooda (Chair) | Ms Pamela Hegarty    |
| Ms Pauline Ah Wang    | Mr Ray Sambo         |
| Mr John Anderson      | Mr Marshall Saunders |
| Ms Gail Barry         | Ms Vivienne Schwartz |
| Ms Rosaline Bourne    | Mr Thomas Sebasio    |
| Mr Morris Cloudy      | Ms Viola Sheridan    |
- 2.2 Taskforce responsibilities include:
- 2.2.1 recommending to the Minister the eligibility criteria and assessment process for the Scheme
  - 2.2.2 monitoring implementation of the Scheme
  - 2.2.3 providing advice to the Minister on any issues arising from establishment and implementation of the Scheme.

## 3 Eligibility Criteria

- 3.1 The Taskforce and Government agreed to retain some eligibility criteria implemented under the IWSR process including that claim subjects had to have:
- 3.1.1 had their wages and or savings controlled by the Queensland Government under the ‘Protection Acts’; and
  - 3.1.2 been alive at 9 May 2002, when the IWSR process was announced.
  - 3.1.3 been born on or before 31 December 1951 for the larger payment amount
  - 3.1.4 been born between 1 January 1952 and 31 December 1956 for the smaller payment amount
- 3.2 The Taskforce and Government agreed to an expansion of the IWSR eligibility criteria to include people born between 1 January 1957 and 31 December 1959
- 3.3 Applications close 16 December 2016.

## 4 Assessment

- 4.1 The Scheme includes reassessment of applications found ineligible under the IWSR process because of:
- 4.1.1 lack of records; or
  - 4.1.2 date of birth
- 4.2 Reassessment of these applications was based on
- 4.2.1 expansion of the eligibility criteria to include people born between 1 January 1957 and 31 December 1959; and
  - 4.2.2 numerous records indexed since the IWSR process closed (making additional information more accessible).
- 4.3 The Panel is an extension of the reassessment process to provide additional review of applications where departmental records are inconclusive or do not provide sufficient evidence to prove or disprove whether a person’s wages or savings were controlled by government.
- 4.4 Applications found ineligible due to inconclusive evidence under the previous IWSR Scheme and the current Scheme are both within the scope of the Panel.

## 5 The Reparations Unit

- 5.1 The functions and responsibilities of the Reparations Unit in relation to the Taskforce include but are not limited to:
  - 5.1.1 providing secretariat support to organise meetings, reports and other responsibilities as directed by the Taskforce
  - 5.1.2 providing liaison between the Taskforce and Government including advice on government processes
  - 5.1.3 providing advice to the Director-General and Minister about the Taskforce including its operation and decisions
- 5.2 The functions and responsibilities of the Reparations Unit in relation to the Scheme include but are not limited to:
  - 5.2.1 receiving and processing applications to the Scheme
  - 5.2.2 investigating the applications and compiling all relevant information, including statutory declarations and oral evidence when appropriate
  - 5.2.3 preparing assessments in relations to applications
  - 5.2.4 providing advice to the Director-General and Minister on the Scheme
  - 5.2.5 making recommendations, in accordance with Parts 12-13 of these Guidelines, to the Panel or the Director-General for payment of claims (as appropriate)

## 6 The Panel

- 6.1 The responsibilities of the Panel, in relation to the Scheme, include but are not limited to
  - 6.1.1 making determinations, in accordance with Parts 12-13 of these Guidelines to endorse or reject the Reparations Unit's recommendations for payment of claims
  - 6.1.2 making determinations, in accordance with Parts 12-13 of these Guidelines to endorse or reject the Reparations Unit's recommendations for non-payment of claims
  - 6.1.3 reviewing the facts of each case (referred to the Panel by the Reparations Unit) at the panel's discretion using all available evidence, including statutory declarations and oral evidence
  - 6.1.4 making recommendations to the Director-General about the payment of claims
  - 6.1.5 reviewing decisions of the Reparations Unit at the request of applicants where evidentiary issues bring applications within the scope of the Panel; and
  - 6.1.6 contributing to the Taskforce's final report on the operations of the Scheme.
- 6.2 The Panel shall meet 6 times a year, usually bi-monthly unless otherwise needed.
- 6.3 The Panel expenses shall be funded by the Reparations Unit, DATSIP from funds separate to the \$21million allocated for reparations payments.
- 6.4 A determination of the majority of members of the Panel is a determination of the Panel for the purposes of these Guidelines
- 6.5 The rules of evidence do not apply to determinations of the Panel but the Panel should only consider evidence which it is satisfied is relevant to the recommendation/s which it shall make and which the Panel is satisfied is reliable evidence.
- 6.6 Recommendations of the Panel in relation to applications will be submitted to the Director-General for consideration.
- 6.7 The Minister and the Director-General may, from time-to-time, issue directions to the Panel in relation to the undertaking of the Panel's responsibilities and functions.

## 7 Applications

- 7.1 The following persons may make an application for an *ex gratia* payment under the Scheme:
  - 7.1.1 a direct claimant (applicant), in accordance with Part 3 of these Guidelines
  - 7.1.2 an authorised representative of an applicant; and
  - 7.1.3 the next-of-kin (including descendants, spouse or de facto spouse) or authorised representative of a next-of-kin to an applicant, in accordance with Part 3 of these Guidelines.
- 7.2 The Department of Aboriginal and Torres Strait Islander Partnerships (DATSIP) through the Reparations Unit is responsible for researching historical government records to assist assessment of claims under the Scheme.
- 7.3 An application shall be on the approved form/s
  - 7.3.1 an application shall be accompanied by proof of identification which may include one or more of the following but not limited to
    - 7.3.1.1 Birth certificate/extract
    - 7.3.1.2 Driver's Licence
    - 7.3.1.3 Proof of Age Card
    - 7.3.1.4 Pensioner Concession Card
    - 7.3.1.5 Medicare Card; and
    - 7.3.1.6 Passport
  - 7.3.2 Applications shall be lodged no later than 16 December 2016.
  - 7.3.3 The Reparations Unit may accept a late application if it is satisfied it is in the interests of justice or equity to do so.
  - 7.3.4 If there is an application by one or more next-of-kin of a deceased applicant, then all such applications received will be investigated and considered together.
  - 7.3.5 In the case of next-of-kin applications; if one or more applicants seek a review or appeal at any stage during the determination of an application, then decisions related to other next-of-kin applications associated with the same claim subject will be held over pending the final resolution of matters under appeal.

## 8 Investigation of applications

- 8.1 When an application is received it will be registered and given a priority rating. Generally the Scheme is prioritising living claimants over next-of-kin applications. Priority to be determined by the Reparations Unit is based on:
  - 8.1.1 whether the applicant applied under IWSR and is eligible for a top-up payment
  - 8.1.2 whether the applicant is a direct claimant (is the subject of the claim)
  - 8.1.3 whether the application is a next-of-kin claim (ie application on behalf of a deceased person)
  - 8.1.4 any evidence of hardship and/or serious medical condition; and
  - 8.1.5 any other factors that the Reparations Unit and/or the Panel considers relevant
  - 8.1.6 Ineligible IWSR applications will be reassessed concurrent to distribution of top-up payments and assessment of new applications.
- 8.2 The priority rating will determine in what order applications are dealt with.
  - 8.2.1 applicants can request a priority payment as their circumstances change.
  - 8.2.2 payment toward funeral costs; where a recently deceased person is due a top-up payment, was previously ineligible or a new applicant; the top-up payment, reassessment or assessment (as applicable), will be prioritised.
- 8.3 The procedure for investigating an application includes the following sequential process, noting that, depending on the evidence found by the Reparations Unit

- 8.3.1 The Reparations Unit will review the application and ensure all appropriate documentation is attached. Applications cannot be processed without the appropriate documentation and a valid signature. The applicant may be requested to provide further information, either in documentary or oral form.
- 8.3.2 The Reparations Unit will undertake a search of historical government records.
- 8.3.3 Where the Reparations Unit considers it necessary, it may, in its absolute discretion, decide to conduct an interview with the claimant in person or by telephone and with any other person who may have information relevant to determination of an application.
- 8.3.4 When the Reparations Unit is satisfied it has made all reasonable attempts to collect relevant evidence referred to in paragraphs 8.3.2 and 8.3.3, it shall assess that evidence and make a determination in accordance with paragraph 8.3 as to whether an *ex-gratia* payment is due, whether the application is to be found ineligible, or if the application should be referred to the Panel for further consideration.
- 8.4 When the Reparations Unit is satisfied it has made all reasonable attempts to collect relevant evidence in relation to an application, the Reparations Unit shall assess the evidence and prepare the following:
  - 8.4.1 a summary of the information found in the course of its investigation of an application, including references for relevant source documents;
  - 8.4.2 in accordance with Parts 12-13 of the Guidelines (as applicable), an assessment and recommendation as to whether or not a payment should be made pursuant to the Scheme, and to whom the payment should be made;
  - 8.4.3 the reason/s for making the recommendation including evidence relied on.
  - 8.4.4 The Reparations Unit may, at its discretion or at the request of an applicant, forward a copy of those documents to the applicant.
  - 8.4.5 If these documents are forwarded to an applicant, the Reparations Unit shall inform the applicant that they may provide the Reparations Unit with a response to the assessment including:
    - 8.4.5.1 whether the applicant agrees with the assessment; and
    - 8.4.5.2 any other information the applicant may consider relevant to the application.
  - 8.4.6 the applicant may be advised that they have 6 weeks from the date of the letter setting out the Reparations Unit's assessment to respond to the assessment (in writing). In cases where the Reparations Unit's searches remain inconclusive, the applicant may inform the Reparations Unit whether they would like their application to be referred to the Reparations Review Panel in accordance with paragraph 8.3.4.
  - 8.4.7 On receipt of a response from the applicant as outlined in paragraph 8.4.5, the Reparations Unit will (as appropriate) forward to the Panel the following:
    - 8.4.7.1 the application
    - 8.4.7.2 the Reparations Unit's assessment and recommendations
    - 8.4.7.3 the documents forwarded to the applicant
    - 8.4.7.4 any response received from the applicant; and
    - 8.4.7.5 a recommendation to the Panel for the Panel's consideration and its possible recommendation to the Director-General that an *ex gratia* payment be made to the applicant in accordance with Part 12-13.
  - 8.4.8 Where the applicant indicates, or the Reparations Unit becomes aware, that they are finding it difficult to provide a written response as indicated in 8.4.5; the Reparations Unit can offer to assist the applicant either through a referral to a DATSIP regional office or other appropriate organisation or through any other process agreeable to both the claimant and the Reparations Unit.

Some of the issues included in such an agreement could include:

- recognition of Aboriginal and Torres Strait Islander peoples as the first peoples of Queensland;
- acknowledgement of our continuing rights and responsibilities as the first people of Queensland, including traditional ownership and connection to land and waters;
- acknowledgement of past acts of dispossession, settlement and discriminatory policies such as the Stolen Wages;
- acknowledgement of the cumulative acts of colonial and state governments since the commencement of colonization which have left an enduring legacy of economic and social disadvantage that many Aboriginal people experience;
- a commitment to address these issues;
- the establishment of a regional network within Queensland based on the experience of the Torres Strait Regional Authority with a 'place-based' approach as agreed at the COAG meeting late last year; and
- a new approach to the settlement of Native Title.

Minister, I believe now that the payment scheme is underway, it is an opportunity to present that scheme and the other acts of reconciliation as a package of measures that gives the government the best opportunity to bring closure to people affected by the stolen wages era. I urge government to engage meaningfully with the Aboriginal and Torres Strait Islander leadership with the aim of producing a document that articulates a new relationship.

Finally, Minister, I believe I speak on behalf of the taskforce when I say thank you for the opportunity you have given us to play a role in bringing some justice to our people here in Queensland.

We now look forward to overseeing the implementation of the scheme but more importantly, seeing our mob get some justice and get some closure.

Yours sincerely

Mick Gooda  
Chairperson  
Stolen Wages Reparations Taskforce

- 12.1.1 the length of time that has elapsed and the difficulty applicants may have in substantiating their application as a result:
- 12.1.2 any deficiencies in the official written record relating to similar applications
- 12.1.3 the importance of oral evidence in the absence of written records and in the cultural traditions of the applicant
- 12.1.4 the purpose of the Scheme, which is to provide a gesture of reconciliation for past injustices against Aboriginal and Torres Strait Islander peoples by government control over their wages and savings.
- 12.1.5 Any available evidence of government control over people's wages and savings under the Protection Acts.
- 12.1.6 any other matter which the Reparations Unit, the Panel, the Director-General or the Minister considers relevant.

## 13 Determination of payees

- 13.1 If the Panel is satisfied that there is sufficient evidence of government control over a person's wages and or savings they shall make a recommendation that the Director-General make an *ex gratia* payment in accordance with paragraph 1.9.2 of these Guidelines.
- 13.2 For the purposes of paragraph 13.1 where an applicant or subject of a claim is deceased, the Reparations Unit shall identify and make recommendation that an *ex gratia* payment be made to the most appropriate beneficiary/ies.

## Appendix 8.3 Use of funds for infrastructure

Tray. Form 8



The Treasury

Brisbane

Box 191, P.O., Brisbane North Quay

25th February, 1965.

Director of Native Affairs,  
BRISBANE.

Dear Sir,

The enclosed cheques (4) are for the following:-

Interest and Redemption due 31.12.64 on various Loans to Local Authorities from :-

NATIVE AFFAIRS

<u>Local Authority</u>	<u>Interest</u>	<u>Redemption</u>	<u>Total</u>
/ Ipswich City Council	195. 3. 5	461.10.11	656.14. 4
/ Wondai Shire Council	91.14. 7	216.18. 7	308.13. 2
/ Bowen Hosp. Board	143. 7. 5	134.19. 5	278. 6.10
/ Gold Coast Hosp. Board	1258. 3. 4	452.16. 8	1711. 0. 0
/ Gympie Hosp. Board	536. 9. 3	320. 1. 4	856.10. 7
/ Maryborough Hosp. Board	931. 0.10	335. 2. 0	1266. 2.10
/ Mount Isa Hosp. Board	1509.16. 0	543. 8. 0	2053. 4. 0
/ Proserpine Hosp. Board	536. 9. 3	320. 1. 4	856.10. 7
/ Roma Hosp. Board	354. 5.11	268.13. 6	622.19. 5
/ Toowoomba Hosp. Board	2295. 0.11	1918.10. 6	4213.11. 5
/ Townsville Hosp. Board	1998.10. 3	967.13. 7	2966. 3.10
/ Warwick Hosp. Board	804.13.10	480. 2. 0	1284.15.10
	<u>£10654.15. 0</u>	<u>£6419.17.10</u>	<u>£17074.12.10</u>

TORRES STRAIT NATIVE AND ISLAND FUND ACCOUNT

<u>Local Authority</u>	<u>Interest</u>	<u>Redemption</u>	<u>Total</u>
Hughenden Hosp. Board	629. 8. 0	625.15.10	£1255. 3.10

Interest payable at Short Term Interest Rate on Interest and Redemption held at Treasury on account of:-

NATIVE AFFAIRS

Two (2) months interest @ $3\frac{1}{4}\%$ on £16,109. 5. 4 (Hosp.Bds)	87. 5. 2
One (1) month interest @ $3\frac{1}{4}\%$ on £965. 7. 6 (Ipswich City Council and Wondai Shire Cncl)	2.12. 3
	<u>£89.17. 5</u>

TORRES STRAIT NATIVE AND ISLAND FUND ACCOUNT

Two (2) months interest @ $3\frac{1}{4}\%$ on £1255. 3.10 (Hughenden Hosp.Bd.)	£6.16. 0
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Yours faithfully,

for Under Treasurer.

Recd No. S.88846.  
S.88847.

3/1/65  
31/3/65

WB/12.

200  
*Quincy*

22nd July, 1963.

The Director-General of Education,  
Department of Education,  
BRISBANE.

Sir,

Re: Loans to Hospitals Boards.

With regard to the above and your correspondence attached, it is pointed out that quite a number of aboriginals have been issued with Exemption Certificates over the past twelve months. Most of them have had substantial Savings Bank Balances with this Department and in accordance with the usual practice, such funds were released to their care when they were exempted.

The withdrawal of these funds has considerably reduced the amount held in the Commonwealth Savings Bank.

It is regretted that no funds are held at present which could be made available on loan to the North Brisbane or any other Hospitals Board.

Yours faithfully,

*ms Stone*  
*B/a*  
*15/7/63*  
*15/7/63*  
*19/7/63*  
*ms Stone*

*Director of Native Affairs.*