

PALM ISLAND CLASS ACTION NOTICE

ARE YOU:

1. FROM PALM ISLAND?

2. ABORIGINAL OR TORRES STRAIT ISLANDER?

**3. AFFECTED BY THE POLICE RESPONSE TO
THE PROTESTS IN NOV 2004?**

**DEADLINE
FOR REGISTRATION:
30 JUNE 2017**



**FEDERAL COURT
OF AUSTRALIA
CLASS ACTION NOTICE**

PALM ISLAND CLASS ACTION NOTICE

ARE YOU:

- 1. FROM PALM ISLAND?**
- 2. ABORIGINAL OR TORRES STRAIT ISLANDER?**
- 3. AFFECTED BY THE POLICE RESPONSE TO THE PROTESTS IN NOV 2004?**

PALM ISLAND RESIDENTS

QUEENSLAND POLICE CLASS ACTION

DEADLINE FOR REGISTRATION: 30 JUNE 2017

WHY IS THIS NOTICE IMPORTANT?

This notice tells Palm Island people what they need to do if they want to be part of the class action lawsuit against the State of Queensland.

The Federal Court of Australia made a decision on 5th December 2016 in a class action lawsuit that was brought by Lex, Agnes and Cecilia Wotton against the State of Queensland and the Commissioner of the Queensland Police Service. The case was called *Wotton v State of Queensland* and it was about the police investigation into the death of Mulrunji Doomadgee in November 2004 and the police response to the protests in the community at that time.

You should read this notice carefully if

- (1) *You are Aboriginal or Torres Strait islander, and*
- (2) *You usually lived on Palm Island between 19 November 2004 and 24 March 2010, and*
- (3) *You were affected by the police response to the protests in the community in November 2004.*

If all of these points apply to you, you have the right to register as a group member in the class action which is explained in this notice and you may be able to make a claim for compensation.

The decision of the Federal Court judge on 5th December 2016 (which is called the “**judgment**”) was that police officers had done acts of unlawful racial discrimination against Aboriginal and Torres Strait Islander residents of Palm Island in November 2004. The judge also ordered that the applicants (the Wottons) should be paid compensation.

The judgment means that some other Palm Island residents who were affected by what the police officers did might also be able to be paid compensation or to get some other help called “**redress**” (which means things like an apology from the government, or being given medical assistance or counselling).

Not every Palm Island resident who was affected by what the police officers did will be able to get compensation or redress.

The judge will have to decide if you have suffered some kind of harm, like being emotionally or physically hurt, or not being allowed to do something that you would normally be able to do (like travel to Townsville).

The judge ordered that this notice should be published so that people who might be group members in the class action know about their right to make a claim.

Anyone who wants to make a claim has to register as a group member before 30 June 2017.

If you want to know how to register, then keep reading this notice. Pay special attention to the part called, “How can you make a claim?”.

The law firm that helped the Wotton family with their case in the Federal Court is **Levitt Robinson**. They are still working on this class action. If there is anything in this notice that you do not understand, you can contact Levitt Robinson, by:

- (1) *calling 02 9286 3133; or*
- (2) *emailing palmisland@levittrobinson.com.*

You could also speak to your own lawyer.

WHAT IS THIS CLASS ACTION?

A **class action** is a lawsuit that is brought by one or more people (who are called the “**applicants**”) on behalf of a group of people (who are called the “**group members**”) against one or more other people (who are called the “**respondents**”). It is called a class action when the applicants and the group members have similar claims against the respondents.

This class action is called the “**Palm Island Residents/Queensland Police Class Action**”. The group members in this class action are Aboriginal people and Torres Strait Islanders who lived on Palm Island on 19 November 2004 and still usually lived there on 25 March 2010. The class action has been brought by the applicants, Lex, Agnes and Cecilia Wotton, on behalf of the group members, against the State of Queensland and the Commissioner of the Queensland Police Service.

In this class action, there was a trial on Palm Island and in Townsville which happened between September 2015 and May 2016. The judgment was given by Justice Mortimer on 5 December 2016. The reasons for the judgment, which are called “*Wotton v State of Queensland (No 5)* [2016] FCA 1457”, can be downloaded at: www.levittrobinson.com/palmisland

Justice Mortimer’s judgment said that some Queensland Police officers had committed acts of unlawful racial discrimination by:

- (a) failing to treat Senior Sergeant Christopher Hurley as a suspect in the death of Mulrunji Doomadgee and by allowing Senior Sergeant Hurley to continue to perform policing duties on Palm Island between 19 and 22 November 2004;
- (b) their treatment of Aboriginal witnesses interviewed, and in their treatment of information supplied by those witnesses, for the purposes of the investigation by the Queensland Police Service into the death of Mulrunji Doomadgee;
- (c) submitting inaccurate information to the coroner, and in failing to supply relevant information to the coroner, for the purposes of the coronial investigation into the death of Mulrunji Doomadgee;
- (d) failing to suspend Senior Sergeant Hurley from active duty on Palm Island after the death of Mulrunji Doomadgee on 19 November 2004;
- (e) failing to communicate effectively with the Palm Island community and to defuse tensions within that community relating to the death in custody of Mulrunji Doomadgee, and the subsequent police investigation;
- (f) making a declaration of an emergency situation at 1.45 pm on 26 November 2004 and by continuing this emergency situation until 8.10 am on 28 November 2004;
- (g) using officers of the Special Emergency Response Team to carry out the arrest of the first applicant (Lex Wotton) on 27 November 2004; and
- (h) using officers of the Special Emergency Response Team on 27 November 2004 to carry out the entry and search of the house of the first and third applicants (Lex and Cecilia Wotton) and the house of the second applicant (Agnes Wotton).

The applicants, the group members, and the respondents are all “bound” by the findings in the judgment. This means that all of these people have to follow what the judgment says about who can make a claim and what they can claim for. The Court has ordered that the first respondent (the State of Queensland) should pay compensation to the applicants (Lex, Agnes and Cecilia Wotton) for the acts of unlawful racial discrimination by police officers. Some group members may now be able to make their own claims against the first respondent (the State of Queensland) for compensation or other redress (which means things like an apology from the government, or being given medical assistance or counselling).

CAN YOU MAKE A CLAIM IN THE CLASS ACTION?

The group members in the class action are Aboriginal people and Torres Strait Islanders who lived on Palm Island on 19 November 2004 and still usually lived there on 25 March 2010. Although the Court has said that police officers committed acts of unlawful racial discrimination against all of the group members, not all group members can be paid compensation.

You may be able to make a claim for compensation in the class action if you are a group member and one or more of these things happened to you:

- (a) you wanted to leave Palm Island or go to Palm Island during the 'state of emergency' between 26 and 28 November 2004 but you couldn't get onto a ferry or a flight; or
- (b) you were arrested by SERT officers (the tactical police unit) because they thought you were involved with the fire in the police station on Palm Island on 26 November 2004; or
- (c) you were there when the SERT officers went into and searched people's homes or arrested people between 27 and 28 November 2004; or
- (d) SERT officers went into your home at that time; or
- (e) when SERT officers went into someone's home at that time, there was damage to your property or your property was "interfered with" (which means someone moved it or did something else with it without your permission).

If you want to know if you can make a claim in the class action, you should immediately speak to your lawyer or speak to the applicants' lawyers, Levitt Robinson, by calling 02 9286 3133 or emailing palmisland@levittrobinson.com.

IMPORTANT: IF YOU WANT TO MAKE A CLAIM IN THE CLASS ACTION, YOU HAVE TO REGISTER YOUR INTENTION TO MAKE A CLAIM BY 30 JUNE 2017

HOW CAN YOU MAKE A CLAIM?

There are two ways to register your intention to make a claim:

- (1) the first way is by registering with Levitt Robinson by:
 - (a) completing the “Levitt Robinson Registration Form” on page 23 of this notice and posting it to the address on the form; or
 - (b) calling 02 9286 3133; or
 - (c) emailing palmisland@levittrobinson.com; or
 - (d) speaking to one of the lawyers from Levitt Robinson when they visit Palm Island between Thursday 27 April and Friday 5 May 2017. The lawyers will arrange for notices to be put up on the community notice board and around the community telling the community about the date of their visit.
- (2) the second way is by completing the “Registration of Intention to Claim” form included on page 23 of this notice and posting it to the District Registrar of the Queensland District Registry of the Federal Court of Australia at the address on the form.

DO YOU HAVE TO PAY LEGAL COSTS IF YOU WANT TO MAKE A CLAIM?

You will not have to pay any legal costs if you just register your intention to make a claim.

The applicants and the respondents might agree to “settle” the class action, which means that the State of Queensland will pay money to group members without the group members having to go to court. If this happens you might be able to get compensation without a lawyer (although you still have to register your intention to claim first).

If the applicants and the respondents don’t settle the class action you will probably need a lawyer to do some work on your claim. There are two ways you can do that:

- (1) The first way is that you can hire the applicants’ lawyers, Levitt Robinson, who will represent you on a “no win no fee” basis (this means that they will do the work for you, but you won’t have to pay them any money until you win. So, if you lose your claim, Levitt Robinson won’t charge you anything).

A copy of Levitt Robinson’s agreement to provide you with legal services can be sent to you.

If you would like a copy, you should:

- (a) call 02 9286 3133
 - (b) or email palmisland@levittrobinson.com.
- (2) Alternatively, you can hire a different lawyer, who may have different arrangements about how they charge you for their work.

WHERE CAN YOU GET COPIES OF RELEVANT DOCUMENTS?

You can read copies of the relevant documents for the class action. These include the Originating Application, the Third Further Amended Statement of Claim, the Defence, the Reply, and the Judgment dated 5 December 2016.

If you want to read any of these documents, you can

- (a) download them from the Levitt Robinson website at www.levittrobinson.com/palmisland; or
- (b) request copies from Levitt Robinson by calling 02 9286 3133 or emailing palmisland@levittrobinson.com; or
- (c) inspect them between 9am and 5pm at one of the offices of Levitt Robinson. For contact details go to www.levittrobinson.com or call 02 9286 3133; or
- (d) contact a District Registry of the Federal Court (contact details are available www.fedcourt.gov.au). If you do this, you may be required to pay an inspection fee to the registry; or
- (e) inspect them on the Federal Court website at <http://www.fedcourt.gov.au/services/access-to-files-and-transcripts/online-files/wotton-v-qld> or, where appropriate arrangements have been made, at <https://www.comcourts.gov.au/file/Federal/P/QUD535/2013/actions>.

**PLEASE READ THIS
NOTICE CAREFULLY.**

**IF THERE IS ANYTHING
YOU DO NOT UNDERSTAND:**

- (1) Ask your lawyer, OR
- (2) Speak to Levitt Robinson by:
 - (a) calling them on 02 9286 3133
 - (b) emailing them at palmisland@levittrobinson.com

**WHAT SHOULD
YOU DO NOW?**

**YOU SHOULD MAKE YOUR DECISION
AS SOON AS POSSIBLE.**

PALM ISLAND CLASS ACTION NOTICE

LEVITT ROBINSON REGISTRATION FORM

IF YOU WANT LEVITT ROBINSON TO WORK FOR YOU:

- 1. FILL OUT THIS FORM.**
- 2. POST IT TO THIS ADDRESS:**

**LEVITT ROBINSON
PO BOX 850
DARLINGHURST NSW 1300**

To: Levitt Robinson
PO Box 850
Darlinghurst NSW 1300

**Palm Island Residents
Queensland Police Class Action
Registration of Intention to Claim**

Dear Levitt Robinson,

I am a group member in the class action and I want to register my intention to make a claim.

Today's date:

Your Name:

Your Address:

Your phone number:

Your email (if any):

PALM ISLAND CLASS ACTION NOTICE

FEDERAL COURT REGISTRATION FORM

IF YOU HAVE YOUR OWN LAWYER:

- 1. FILL OUT THIS FORM.**
- 2. POST IT TO THIS ADDRESS:**

**THE REGISTRAR
FEDERAL COURT OF AUSTRALIA
QUEENSLAND DISTRICT REGISTRY
LEVEL 6, HARRY GIBBS COMMONWEALTH
LAW COURTS BUILDING
119 NORTH QUAY BRISBANE QLD 4000**

Lex Patrick WOTTON and others
(Applicants)

State of QUEENSLAND and another
(Respondents)

**Palm Island Residents
Queensland Police Class Action
Registration of Intention to Claim**

To: The Registrar
Federal Court of Australia
Queensland District Registry
Level 6, Harry Gibbs Commonwealth Law Courts Building
119 North Quay
Brisbane QLD 4000

Name
(please print):

a group member in this class action, gives notice that he/she intends to make a claim.

Date:

Your Address:

Your phone number:

Your email (if any):

Signed:

Capacity (delete as appropriate): group member/legal representative of group member

