



**THE TOOMELAH  
REVIEW**

**March 1989**



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## List of Abbreviations

ADC	Aboriginal Development Commission (Federal)
CDEP	Community Development Employment Project
CDP	Community Development Plan
CES	Commonwealth Employment Service
DAA	Department of Aboriginal Affairs (Federal)
DMR	Department of Main Roads (NSW)
MPSC	Moree Plains Shire Council
OAA	Office of Aboriginal Affairs (NSW)
TAFE	Department of Technical and Further Education (NSW)

# Introduction

On 15 June 1988 the Human Rights and Equal Opportunity Commission released the Toomelah Report, containing the results of its inquiry into the social and material needs of Aborigines in the New South Wales/Queensland border towns of Toomelah and Boggabilla. The Commission undertook at the time to review progress on the implementation of the Recommendations <sup>1</sup> six months after its release.

On 15 and 16 December 1988, the President of the Commission, the Hon. Justice Marcus Einfeld, accompanied by Inquiry member Ms Kaye Mundine and two members of staff, visited Toomelah, Boggabilla and Goondiwindi to conduct this review. They found that substantial improvements in the living conditions of the residents had occurred and more changes were in progress or planned. This report comprises its findings.

# 1. Inter-Governmental Conflicts

The Toomelah Report recommended the establishment of a mechanism for the co-ordination of Federal, State and Local Government activity in relation to Toomelah. The Toomelah Development Co-Ordinating Committee, chaired by a representative of the Moree Plains Shire Council, has been meeting on a quarterly basis. A considerably more co-operative relationship has been established between the three levels of government, and there has been more efficiency and a greater preparedness to compromise. The visit to Toomelah in September 1988 by the Premier of New South Wales, the Hon. Nick Greiner M.P., and the Federal Minister for Aboriginal Affairs, the Hon. Gerry Hand M.P., also contributed to a new constructive spirit and a new level of morale. Mr Greiner established a committee within the Premier's Department, chaired by Mr Neville Perkins, Secretary of the NSW Office of Aboriginal Affairs (OAA), to oversee and co-ordinate New South Wales Government activities in response to our Report.

The goal of all government is the welfare of the people. Whilst it is obvious that the complexity of modern government requires orderly adherence to systems and rules of procedure, it is equally true that administration must operate with rationality and commonsense. The evidence disclosed to our Inquiry indicated that in the past these elements had often failed to operate at Toomelah and Boggabilla. It is pleasing that this chapter seems to have been closed, although continuing monitoring is needed. The fact that the work at Toomelah since our Report has been funded from existing allocations illustrates this matter starkly. The pace and scope of the recent improvements at Toomelah could not and would not have occurred if this issue had not been addressed and resolved. Future progress at Toomelah and elsewhere requires a permanent solution to this problem. The Inquiry recommends the establishment of a standing committee of government authorities and residents to monitor and supervise future progress.

## 2. Housing

When the Greiner Government came to office in New South Wales in March 1988, it cancelled the previous Government's Homes on Aboriginal Land Program. Following representations by the Commission to the New South Wales Minister for Housing, this decision was reversed. Subsequently, and following Premier Greiner's visit to Toomelah, the housing situation has dramatically improved. The Premier undertook to provide sixteen new houses in the 1988-89 financial year. Eight of these houses are nearly complete at the time of writing, with construction scheduled to begin on the final eight in the near future. A number of problems, however, remain to be addressed.

### Maintenance

During its progress inspection, the Review stressed that effective schemes for the maintenance of houses and services must be devised. This requires further co-operation between residents, their representatives, and the appropriate spheres of Government. The President of the Toomelah Housing Co-operative, Mr Garry Woodbridge, assured the Review that the Housing Co-operative would ensure the co-operation of the householders in proper and regular maintenance.

### Building Standards

At present it appears that no person or organisation takes responsibility for ensuring that houses for Aborigines in Toomelah and Boggabilla meet satisfactory standards of construction. In particular, the Review was told that there is no inspection process to ensure that new houses meet the requirements, inter alia, of Ordinance 70 of the **Local Government Act 1919** (NSW). This has resulted in, for example, roof drainage systems which allow rainwater to drain into houses, kitchen sinks being constructed without greasetraps and good drainage, with resultant overflow into the houses, and sewer systems which block up and force sewage back inside the houses.

The Moree Plains Shire Council (MPSC) has no authority to ensure that Aboriginal dwellings comply with normal standards because they are built by Federal and State agencies which are exempt from the **Local Government Act**. **The** MPSC's suggestion for overcoming this problem is that the Toomelah community be included within the building control area of the Shire. This would require all new building applications to be submitted to Council, and the empowering of Council to insist that all new dwellings complied with the **Local Government Act and Regulations**. **It would also give Council the power to enter and condemn buildings or require defined maintenance. It would require**



co-operation between Commonwealth, State and Local Government, and possibly legislation.

It is not for this Review to determine whether this solution should be adopted; this is a decision for the Toomelah community and the various levels of government. However, while the community and the relevant authorities contemplate the MPSC's proposal, there is an urgent need for the construction authorities to adopt standards to ensure the health and safety of residents of Aboriginal homes. The current practice has the effect of requiring Aborigines to live in unhealthy and unsafe second class or low grade dwellings. In Boggabilla, it also means that Aborigines and non-Aborigines live alongside each other in manifestly different health conditions, for racial, not economic, reasons. This is not to say that Aboriginal homes should conform with non-Aboriginal standards - but health and safety must be ensured. The present situation should not be permitted to persist. The OAA is presently inquiring into this matter and is due to report to the Government in March 1989.

The Review recommends that the State and Federal Governments urgently co-operate to effect a long term solution to this matter. In the meantime, the Review urges that consultation on an informal basis between MPSC, the construction authorities and the Aboriginal community ensure that housing for Aborigines complies with appropriate standards of health and safety.

### **3. Water and Sewerage**

Decades after the water and sewerage system was identified as needing major attention, there has now been a complete renewal of the system and service connections, at a total cost of \$108,000, paid by the Department of Aboriginal Affairs (DAA). The MPSC was contracted to carry this out, and work was almost complete at time of writing. Renewal of service connections is scheduled for completion by March/April 1989.<sup>2</sup>

Again long after the need for a new sewerage system became manifest, a new sewerage system has been constructed to replace the old common septic system, at a cost of \$440,000. This was funded by DAA and OAA. The new system has included the construction of sewer mains, pumping station, and oxidation ponds and the provision of house service connections. The MPSC was contracted to carry out the work, which was completed in December 1988.<sup>3</sup>

The raw sewage previously found in and close to the village has now been removed and the other inadequacies revealed by the Toomelah Report attended to. The Review warmly compliments the various authorities who have made all this possible.

# 4. Roads

## Internal Roads

The Aboriginal Development Commission (ADC) requested the NfPSC to design and construct an internal road system within Toomelah. After a considerable consultation process, partly due to the insistence by the MPSC that the road have a dual carriageway in each direction, a design was agreed between the community and the ADC. The initial funding allocation was \$742,800, \$432,200 of which had been expended as at 5 December 1988.<sup>4</sup> Work commenced on 17 October 1988 and was proceeding at the time of writing. Additional funding of \$146,000 has been sought for drainage of roof water from houses into the stormwater drainage system, which forms part of the road construction works. The MPSC has estimated that the internal road works should be completed by April 1989.<sup>5</sup>

## Access Causeway

Provision of an all-weather access bridge across the river at the entrance to the settlement remains problematical. The MPSC informed the Review that consultants had advised the need for a substantial structure, costing in the order of \$900,000.<sup>6</sup> Less costly alternatives are said to risk periodic flooding. This expenditure appears likely to be rejected by the New South Wales Government as excessive, and we have urged that a suitable compromise be found. The Bailey Bridge proposal recommended by our Report<sup>7</sup> as a temporary measure was rejected by the MPSC on technical grounds,<sup>8</sup> and also because, despite a substantially unused store of such constructions, the Department of Main Roads (DMR) had indicated that a substantial charge would be made for the use of one of its bridges. The ADC is apparently considering a concrete box culvert proposal.

A viable solution is very urgent, as only a small amount of rain renders the present crossing impassable. This obstructs the supply of food and the obtaining of medical care and other health services, and prevents children from attending school and adults from getting to work. The Review calls for an urgent meeting of the relevant authorities to solve this problem.

## Shire Road

Several kilometres of the old Bruxner Highway, between the North Star turnoff and Toomelah, remain unsealed. Funding of \$800,000 for this purpose was allocated by the DMR to the MPSC in 1982, to be made available in four

annual \$200,000 instalments. The MPSC told the Inquiry in 1988 that completion of this project was included in its 1988 program. It had not been carried out by December 1988. The MPSC advised the Review that unseasonably high rainfall had necessitated the re-allocation of construction staff and equipment to other pressing works. Council undertook to complete the work in 1989.

The work includes the provision of a crossing over an anabranch of the McIntyre River. The MPSC stated that flooding in 1988 had indicated the need for a somewhat more substantial crossing than had been anticipated. As a result, additional funding of \$150,000 is apparently necessary. Application has been made to the New South Wales Government for these monies.<sup>10</sup> They are expected to be made available soon.

The Review is concerned at the continuing delays in these respects. The original schedule was fixed as a settlement of a complaint of racial discrimination made by the Toomelah community in 1981 to the New South Wales Anti-Discrimination Board. Compliance with the settlement will be more than 3 years overdue even if the present revised schedule is adhered to, and the Review was told that this would only be realisable if the additional funds were made

The current situation means that, every time there is appreciable rain, residents, teachers, health workers, tradespeople, food suppliers and other visitors are required to make two boat crossings to gain entry to or exit from Toomelah. This is intolerable as it places the health, safety and well-being of the entire community at risk. We urge the early allocation of the necessary monies and staff so that the work can proceed expeditiously.

## 5. Legal Status of Toomelah

The legal status of Aboriginal land in New South Wales is governed by the **Aboriginal Land Rights Act 1983** (NSW). The Act provides, inter alia, for the creation of Local and Regional Aboriginal Land Councils and a NSW Aboriginal Land Council.<sup>11</sup> Section 35 of the Act vests title to lands formerly held in trust for Aborigines in Local Aboriginal Land Councils. The form of title has been described as 'inalienable freehold' because the Act contains restrictions on dealing with Aboriginal land (s.40). Toomelah is formally vested in, i.e. owned by, the Toomelah/Boggabilla Local Aboriginal Land Council. Its status is characterised by some opinions and authorities, therefore, as private property.

The **Local Government Act 1919** (NSW) precludes the provision of services by local councils to private properties other than on a fee for service basis (Part XXIII, s.500). If Toomelah is in law private property, the MPSC has no legal responsibility to provide services inside its boundaries, other than (as recently) by contract with the landowner or various government agencies with relevant responsibilities and rights. However, it is at best a legal fiction to describe Toomelah as a single private property, as it is a community of several hundred people, 40 houses, a primary school, health clinic, and so on. Assuming the legal pronouncements are correct, it is an unjust and troublesome anomaly which requires Parliamentary attention.

In answer to a Question on Notice in the New South Wales Legislative Assembly from Mr L D Ferguson M.P., Member for Granville, the Minister for Local Government and Planning, the Hon. David Hay M.P., said in this connection:

"If necessary, the Local Government Act will be amended to empower Councils to undertake service provision and maintenance, other than on a fee for service basis, on land owned by Aboriginal Land Councils."<sup>12</sup>

Assuming that this statement evinces a State Government intention to put Aboriginal settlements on the same footing in relation to Council services as other comparable centres of population, the Review applauds this suggestion and urges its early implementation. The Review recommends that the legal situation of Aboriginal communities like Toomelah be clarified and defined so that the Aborigines living there are not deprived of rights and services provided to non-Aborigines.

## 6. Zoning

The zoning classification of Toomelah was formerly "Rural". However, a Local Environmental Plan was prepared by IVIPSC in consultation with residents, pursuant to the **Environment Planning and Assessment Act 1979 (NSW)**, and was gazetted on 1 July 1988. This changed the zoning to "Special Uses (Aboriginal Settlement)".<sup>13</sup>

The old classification was restrictive of new development and prohibited the establishment of any commercial enterprise. The new zoning will allow much greater scope for entrepreneurial activity, including commercial and light industrial, and will permit the Toomelah community to examine and find ways of commencing and engaging in remunerative employment-creating endeavour.

## 7. Rates

The **Aboriginal Land Rights Act 1983 (NSW)** does not contain a blanket exemption of Aboriginal land from local government rates as had been provided for in the repealed **Aboriginal Lands Trust Act 1975 (NSW)**. However, section 43 of the Act empowers the Minister responsible for the Act to grant an exemption from rates to certain parcels of Aboriginal land. In the Inquiry Report the Commission recommended that such an exemption be granted to Toomelah." At the time of writing this has not been done, and no explanation has been offered. **The Commission again requests the Minister to grant this exemption until the people of Toomelah are in fact truly self sufficient.**

Although Toomelah constitutes one parcel of land which the MPSC calls "private property", MPSC's policy since 1985 has been to levy rates on a per-dwelling basis, albeit in one lump sum charged to the Land Council. The MPSC claims a strong legal foundation for this policy <sup>15</sup> but, as the Review has previously pointed out, the **Valuation of Land Act 1916 (NSW)** does not adequately take into account the recent statutory phenomenon of inalienable communal land <sup>16</sup> Nor =does it contemplate the situation of householders who are the long term victims of institutionalised discrimination, including deprivation of education and training, and reasonable opportunities for regular remunerative employment. Accordingly we recommended that the Act be amended,<sup>17</sup> and the New South Wales Premier has now established a committee chaired by Mr Neville Perkins of the OAA to examine this issue as a matter of urgency.

When, after the planned improvements for the area and its people are completed, the MPSC is given the same responsibilities in relation to each Toomelah house and ratepayer as it has for the houses of its other ratepayers, and the odd legal status of Toomelah is otherwise clarified, a per-dwelling rating policy may be more justified.

## 8. Education

### Pre-School

There remains an urgent need for pre-school facilities at Toomelah. Operation of the pre-school continues in a disused machine shed, without proper lighting, water and sewerage. This is completely unacceptable. The community has 44 pre-school age children. The present premises induce a host of problems, including health and disciplinary difficulties. They would not be permitted to be used for non-Aboriginal children in any other part of the State. **The Review calls upon the NSW Minister for Family and Community Services, the Hon. Virginia Chadwick MLC and the Federal Minister for Community Services and Health, the Hon. Neal Blewett M.P. to address this need as a matter of urgency.**

### Primary

Consultation with teachers at Toomelah revealed two major continuing problems: staff recruitment and retention, and class sizes. With regard to the former, it was suggested that the Department of Education might consider offering salary and other incentives to teachers prepared to work in remote areas especially where there are also educational problems. In relation to class sizes, the teachers suggested that Aboriginal schools should constitute a special category because the students require more remedial teaching and greater individual attention. **The Review recommends that the Department of Education give urgent attention to addressing these problems.**

### Secondary

In its earlier hearings in 1988, the Inquiry received evidence of racism against Aboriginal students attending Goondiwindi High School. For the purpose of this Review, the Commission contacted the Principal and offered to meet with him and his staff. His reaction was that such a meeting would be a barren exercise because the school now has only two Aboriginal students, both of whom he said were doing well. It would seem, therefore, that to some extent the problems experienced by Aboriginal students at the school have been solved by default, as virtually all are now attending Boggabilla Central School in the NSW education system.

The Review is disappointed that its invitation to meet with the Principal and staff was not accepted. What was complained about by witnesses to the Inquiry's 1987 hearings was overt racism towards Aborigines. This is not addressed merely by the departure of most Aborigines from the scene. In addition, the



development of rapport between Aboriginal and non-Aboriginal children in the Goondiwindi area is crucial to the future peace and well-being of this whole district. Non-Aboriginal people in Goondiwindi have a substantial interest, as many of them appreciate, in developing friendly co-operation and warm relations with Aborigines living nearby.

On the other hand, the Review is pleased to report that Boggabilla Central School has progressed remarkably since its inception at the beginning of 1988. There are currently 62 students enrolled in years 7-10, 95% of whom are Aboriginal. Subjects taught include English, Mathematics, Science, Aboriginal Studies, Media Studies, Music, Art, Technics, Home Science and Physical Education. It is located in a series of temporary demountable buildings made usable and amenable by a committed and motivated Principal and staff.

The syllabus for years 11 and 12 is augmented by TAFE subjects under an innovative joint School/TAFE Program which is now in operation. Under the Program, some TAFE courses are available to year 11 and 12 students, so that they leave school with TAFE credits. The practical benefits and incentives of this scheme cannot be overemphasised. The Program, albeit in its infancy, appears to be an outstanding success. Its architects are entitled to congratulations and praise for both the achievement itself and the example set for elsewhere.

An amount of \$1m has been allocated from the Commonwealth Grants Program for permanent educational accommodation, but estimated construction costs are \$5.25m. This is now being considered by the New South Wales Department of Education in the context of its total school capital works program.<sup>18</sup> Apart from the urgent problems for the present staff and students, the fact is that, until the accommodation is permanent, non-Aboriginal children are unlikely to attend in sufficient numbers to broaden the school's base, and to break down the sense of isolation and discrimination which local Aboriginal people experience.

A number of other problems were raised during consultation with teachers at Boggabilla Central School:

- As at Toomelah, there is a need to attract additional experienced and trained staff.
- A computer room is needed.
- There is a lack of transport to enable the pupils to travel to sports and other events, and to undertake outings and excursions. A bus is urgently needed.



- Although a health clinic is on the site, no staff have been allocated to it, despite several requests.

The need for proper permanent facilities is acute. **The Review urges that permanent facilities be provided, and the other needs outlined be met, as soon as possible. We appeal to private enterprise to supply the bus needed.**

## **Adult Education**

A wide variety of courses is currently offered to the Toomelah community by the Department of TAFE, with an accent on practical subjects designed to enhance employment prospects. These include: Home Maintenance, Woodwork, Accounts (Clerical), Small Business Management, Nutrition Cookery, Child Care and Aged Care, Certificate of General Education, Tertiary Preparation, Reading and Writing for Adults, Office Studies, Keyboard, Horse Handling, Automotive Mechanics, Welding, Tractor Maintenance and Wool Classing.

Some courses can be taken at Boggabilla or Toomelah, at both of which places school facilities are used. In 1988 there were 526 TAFE students enrolled at Boggabilla and 50 at Toomelah. Having regard to the population numbers, this demonstrates a phenomenal level of desire for training and education among Aboriginal adults.

Construction of permanent TAFE facilities at Boggabilla was scheduled to commence by the end of 1988, although no evidence of this was apparent to the Commission in mid-December. The complex will include accommodation for welding and metalwork, fashion, computer and general studies courses. The Inquiry was informed that construction is scheduled to be completed by early 1990. This is the single most significant means of making fair employment opportunities, and thus genuine self determination, available for the Aboriginal people of the district. **We urge the New South Wales Government to complete the permanent TAFE college as soon as possible.**

# 9. Health

## General

The health problems suffered by the Toomelah community are partly attributable to poverty and dispossession - the poor living conditions and lifestyle which have characterised Toomelah since its foundation. In particular, lack of fresh water, adequate sewage disposal and weather-proof housing have been fundamental causes of much ill health. So too have inadequacies in employment, education and general community welfare. As many of these deficiencies have now been or are in the process of being addressed, it is to be hoped that measurable health benefits will follow.

## Toomelah Clinic

There was no registered nurse in Toomelah for most of 1988, but the Inquiry is pleased to report that the position has now been filled. However, there are problems which remain to be addressed:

- No accommodation has been provided for the nurse, and she has been forced to take a room, at personal expense, in Boggabilla. **This is not acceptable for many obvious reasons, and we recommend that immediate steps be taken to provide suitable accommodation.**
- The clinic itself does not approach even minimal standards, and during his visit to Toomelah in September last year, the Premier, Mr Greiner, undertook to provide a new clinic. Construction is due to commence in 1989, following community agreement on a suitable site.
- Involvement of the Aboriginal community in health care is essential if health conditions are to be improved. This requires education and information services of the kind developed by the Aboriginal Health Service. However, at present there is only one Aboriginal Health Worker at Toomelah. This is not sufficient. **Recruitment and training of more Aboriginal health workers is urgently needed.**

## Goondiwindi Hospital

During our 1987 sittings, the Inquiry received evidence from Aboriginal people that they had been discriminated against in various ways by staff at Goondiwindi Hospital. In December 1988, the Commission inspected the Hospital and held discussions with Dr Bruce Dixon, retiring Medical

Superintendent of the Hospital, and Dr Philippa Whish, a medical practitioner who currently services Toomelah. This was a most constructive and useful opportunity. The Hospital is a magnificent modern facility which is a credit to the staff, the community and the Queensland Government.

Dr Dixon rejected the suggestions of discrimination made by witnesses at our earlier hearings, and said that the nursing and other staff had always provided Aboriginal patients with no less a standard of care and attention than non-Aborigines. He informed us that the hospital services between 8,000 and 9,000 patients each year, about one-eighth of whom were Aboriginal. All patients are treated equally, and no complaint had ever been received from an Aborigine. Dr Dixon stated unequivocally that no Aboriginal person had ever been refused treatment.

Equal treatment and the absence of complaint do not ensure that Aboriginal people are provided with health services without discrimination and in the most effective and appropriate ways. Adequate health care for Aborigines requires cultural sensitivity - different, but not inferior treatment. The appropriate test is not the absence of complaint but the absence of cause for complaint.

Dr Dixon agreed that perhaps one of the causes of the feelings of discrimination was the lack of information available to some Aboriginal patients about the nature and need for certain medical procedures. Some examinations and other procedures which would not be questioned by non-Aborigines appear to be grossly offensive to Aborigines. Procedures such as vaginal examination and urine samples were cited as examples. This is very much a matter for education and information. It is obvious that great sensitivity and application by staff is required in these regards when dealing with Aboriginal patients. It was agreed that steps need to be taken throughout the health system to ensure that this receives continuing attention.

Many of the health needs of the people of Toomelah and Boggabilla would be met if greater use could be made of the facilities at Goondiwindi Hospital and the other medical and health services available in the town. Moree is 120kms away, Goondiwindi only 271ans distant. Apart from the attitudinal problems to which earlier reference has been made, New South Wales residents are not entitled to use the facilities in Goondiwindi. Dr Whish has suggested a two-State agreement under which New South Wales would assist Goondiwindi Hospital financially or through the provision of extra trained staff. She has further suggested a bi-weekly bus service (using a school bus during school hours) from Toomelah and Boggabilla to Goondiwindi to permit patients from New South Wales to travel to Goondiwindi Hospital for treatment and services on a regular non-urgent basis. These proposals were discussed with Dr Dixon. Dr Whish's proposals have obvious merit and the Commission has been provided with no evidence to suggest any reason why they should not be implemented. Neither

gross duplication nor a complete absence of resources is acceptable. **We urge the New South Wales and Queensland Governments, in consultation with the Aboriginal communities, to negotiate a suitable agreement on these matters promptly and co-operatively.**

## **Medical Practitioners**

At present Dr Whish visits Toomelah from Inverell (some 210 kms away) once a month. Despite her dedication and skills, this is a grossly inadequate service. It is recommended that steps be taken to ensure the ready availability of a doctor when required. The most obvious source of this service is Goondiwindi, but this would require substantial personal and interstate co-operation.

In particular, there seems in principle to be no reason why the services of the medical practitioners in Goondiwindi should not be available to the people of Toomelah and Boggabilla - perhaps on roster - if a resident doctor on the New South Wales side of the border is not possible. Dr Dixon indicated that, if this were to occur, at least one more doctor would be required at Goondiwindi Hospital. Further, the needs of the children of Boggabilla and Toomelah and their parents for health education and information services could be provided or supplemented from the same sources on appropriate payment by the New South Wales or Federal Government. **The Review recommends that the New South Wales and Queensland Governments urgently negotiate an agreement for the supply of medical services by Queensland practitioners to New South Wales residents in this area.**

## **Goondiwindi Ambulance**

In December 1988 the Review held discussions with Messrs. Doug Marquard and Lionel Armstrong of the Goondiwindi Ambulance Service. As in New South Wales, Queensland ambulance services are provided free to subscribers and for a fee based on mileage to non-subscribers. Goondiwindi Ambulance relies upon subscriptions for a substantial portion of its funding. The Service said that unpaid fees of some \$3,500 had been incurred by Aboriginal non-subscribers. There were also fees not paid by non-Aborigines from New South Wales.

While the legal entitlements of New South Wales residents in these circumstances are unclear, the Review commends the Goondiwindi Ambulance Service for continuing to provide services to persons on the New South Wales side of the border when needed, notwithstanding the unpaid fees for past transport. The Service requires funds to operate, and its fees are comparable with those pertaining in New South Wales. **An interstate arrangement should**

**be made so that all New South Wales residents in the area can be serviced by the Goondiwindi Ambulance Service with appropriate reimbursement.**

**In order to create the atmosphere for a fresh start, we recommend that DAA pay the outstanding fees to the Service incurred by the Aboriginal people of Toomelah and Boggabilla to date. While recent gains in the living conditions and the other human rights of these Aborigines are being consolidated, including education and training, and reasonable opportunities for regular remunerative employment, the DAA or other suitable federal authority should assist the members of the communities to find the funds for the ambulance service if necessary. The New South Wales Department of Health should take immediate steps to facilitate these developments.**

**To achieve all these health care goals, the Review also recommends the immediate establishment of a forum on border health problems for the consideration and resolution of these matters. The membership of the forum should include local practitioners, Dr Whish and representatives of the nursing staff and the administration of Goondiwindi Hospital, of the New South Wales and Queensland Departments of Health, of the Aboriginal Health Service, and of the Toomelah and Boggabilla Communities.**

# 10. Employment

## The Community Development Plan

Employment is the key to further significant progress in achieving the human rights of the Aborigines at Toomelah and Boggabilla. We previously reported that consultants had been engaged to plan for the future attainment of full human rights for these persons. A Community Development Plan (CDP) for the two towns has now been prepared by MSJ Keys Young, Consultants. The project was initiated by the Toomelah/Boggabilla Co-ordinating Committee, which includes representatives of government agencies and the Toomelah and Boggabilla communities. Funding was provided by three government agencies: the DAA, ADC and the NSW Department of Housing.

The brief for the project required the consultants:

"... to identify the relevant physical, economic and social issues that affect the development of the Toomelah community ... [in] ... the context of their impact on the present community and the impacts and constraints on the future development of the community and in particular their effect on Boggabilla." <sup>20</sup>

The consultants saw their role as being:

"... to assist the residents of Toomelah and Boggabilla to decide the way they would like to see their communities develop and to communicate that vision in a way that can be acted upon by the relevant governmental agencies." <sup>21</sup>

The CDP is of profound significance. The consultative process encouraged the community and gave it the opportunity to 'come out of itself' and express its desires and aspirations to the various authorities who are needed to achieve results. It highlighted the need for co-operation and agreement amongst community members and helped to create a new sense of meaning and vision for the community. It made apparent the need not only to identify problems and solutions, but to determine mechanisms and procedures which would ensure that decisions were fully and systematically executed. Perhaps most importantly of all, it provided the machinery for the bureaucracy at last to listen to and consult constructively with the Aboriginal people who were affected by its decision-making.

**The Review recommends that additional funds be made available to allow the consultants to produce such further proposals for the attainment of self determination for the Aboriginal people of the area, as they and the Aboriginal people think appropriate.**



## **Community Development Employment Project**

As part of the CDP, the Toomelah community decided to embark upon a Community Development Employment Project (CDEP), which commenced in February 1989. The decision to undertake the Project was taken after extensive consultation between the community, the consultants to the Plan and officers from the Department of Employment, Education and Training, ADC and DAA.

Mr Vidi Jemikens, of the DAA Regional Office at Inverell, is co-ordinating the Project with the various government agencies. Provision has also been made for the employment of a Community Employment and Training Officer, funded by DAA. Mr Steven Waterbury has been chosen by the community to fill this position. Mr Waterbury is being provided with an office and a telephone at Toomelah, and will be responsible for community organisation and work programs. He will also train community members in office administration and project direction.

The CDEP, in combination with the TAFE Program, has enormous potential to provide the community with economically valuable skills and, hopefully, jobs. It should result in the development of greater self-esteem and equip participants with the capacity to realise their significant potential to play a useful and creative role in the wider community. The Review warmly commends those responsible for this major initiative.

**We recommend that the Commonwealth Employment Service (CES) based at Goondiwindi urgently work on the development of innovative promotion programs designed to increase the available employment opportunities for Aborigines from Toomelah and Boggabilla, in both private and public sectors in southern Queensland and northern New South Wales. Co-operation with other offices of the CES in the district, Shire, Town and City Councils, Chambers of Commerce and other locally-based bodies should be sought. We especially urge the Town Council and people of Goondiwindi, who are in a position to assist, to look for and make available opportunities for the employment of Aboriginal people living on the New South Wales side of the border.**

# 11. Euraba Shop

One of the many basic services which the Inquiry had earlier found lacking at Toomelah was a general shop. A community of hundreds of people, many without transport, and often cut off during inclement weather, was forced to travel 16 kilometres in order to purchase food and any other necessities.

In June 1988 the community formed a committee to pursue the establishment of the shop. The Principal of the school gave his consent to the shop operating from a section of the school canteen, pending the development of a permanent facility. The committee then negotiated with three government instrumentalities:

- the New South Wales Department of Education, for use of premises;
- the Federal Department of Employment, Education and Training, to subsidise the training of two local young people who will eventually run the shop; and
- the Aboriginal Development Commission for funding for equipment, initial stock, and a full-time supervisor.

There were many delays and deadlocks, several the result of the familiar bureaucratic inertia, and some required the Commission's intervention to facilitate solutions. Eventually all the necessary approvals were obtained. The Review is pleased to report that a shop opened at Toomelah on 28 November 1988. Predictably enough, it has been a huge success, and the shop committee is presently pursuing the siting and construction of permanent premises. **The Review recommends that urgent funds be made available for this important initiative so that construction can proceed as soon as the site is ready.**

## 12. Aboriginal Heritage

### Old Toomelah Cemetery

The Inquiry earlier reported that Old Toomelah Cemetery, the title to which was granted to the Toomelah community some years ago, is surrounded by private property, and consequently there is no means of access. It appears that the situation has not changed, although the Review was told that the property owner had not objected to access via his land. Though right of access to owned property has been soundly established by the law for centuries, it is necessary that the rights of the community in this instance be properly laid down. The Inquiry recommended that the New South Wales Government take the appropriate action to do so. It has not yet been done. **This Review repeats the recommendation and strongly urges its implementation.**

### Boobera Lagoon

In May 1984 the Toomelah Local Aboriginal Land Council submitted a claim to the New South Wales Government, pursuant to the Aboriginal Land Rights Act 1983 (NSW), with respect to the area of the Boobera Lagoon owned by the Crown. In 1987 the then Minister for Lands agreed to a grant pursuant to section 37 of the Act. Under this section freehold vests in the claimant, but the land is leased in perpetuity to the Government.

At the time of our earlier report, a plan of management was awaited, and the Inquiry reported the intention to establish a management committee to draw up the plan, including representatives of the Pastures Protection Board, the Moree Plains Shire Council, the Goondiwindi and District Aquatic Club, the Toomelah community and others. However, the Review was advised that the Toomelah representatives refused to participate in the committee because they believed that use of the lagoon by the Pastures Protection Board or the Aquatic Club was incompatible with its sacred nature.

The NSW Department of Lands has produced a discussion paper in relation to this issue. In response thereto, the New South Wales Aboriginal Land Council and representatives of the Toomelah community engaged Mr Richard Thompson, an experienced anthropologist and hydrologist, to prepare a report giving greater emphasis to environmental and other factors. The report was being finalised at the time of writing.

**A resolution of this issue is thus not at hand. One difficulty said by some to exist is that there is no one who can legitimately claim to speak with the authority of the Toomelah community. A further problem is finding a solution which will**

accommodate the needs and wishes of the various present users of the lagoon. **The Review recommends that the New South Wales Aboriginal Land Council assist the Toomelah Community with a view to making progress in this matter.**

It is obvious that if nothing at all is done, there will be no rational management plan to cater for Aboriginal interests and concerns, and the Aquatic Club, the Pastures Protection Board, and local farmers will as a result have effectively untrammelled use of the Lagoon. **We also recommend that the Goondiwindi Town Council use its good offices to encourage moderation in the Aquatic Club so that the legitimate claims of the Aboriginal communities are heard and respected.**

The resolution of this matter, like so many others, will require patience, understanding and compromise on all sides. **We recommend that, after consultation with the Toomelah Community, the New South Wales Government and the DAA appoint an independent mediator to assist all the parties and interested groups to negotiate a solution.**

## **Boggabilla Community Hall**

The Inquiry earlier recommended that the DAA provide funds for the provision of toilet facilities and disabled access at the Boggabilla Community Hall. ADC and DAA Regional Offices have requested documentation from the Boggabilla Aboriginal Corporation supporting their application for \$25,780 to undertake this work, the implication being that when this is supplied and checked approval for the funds will be forthcoming. We understand that two quotations have now been supplied, and urge the early authorisation of construction work.

## 13. Inter-Racial Activities

The Toomelah Report gave emphasis to the role church and community organisations should play in achieving racial harmony. The Report did not accept that the people of Goondiwindi were not interested in, or in alleviating, the plight of Aborigines across the border. The Review noted a generally more friendly, positive and co-operative spirit prevailing in Toomelah, Boggabilla and Goondiwindi. The Review was informed that this is in no small measure due to a number of inter-group activities which have occurred since our report primarily under the auspices of the Uniting Church.

The Toomelah Christian Singing Group has been invited to Goondiwindi on a number of occasions. In December 1988 they sang Christmas carols in the main street, on each occasion attracting significant and enthusiastic crowds. They have also been invited to sing at Goondiwindi Hospital and Kaloma Old People's Home. The Goondiwindi Uniting Church also held a combined service for the Aboriginal Group, which returned the compliment at a barbeque in Boggabilla. The Church has also invited Aboriginal children to join in regular camping trips which they organise. Pastor and Mrs Law have been accepted and welcomed into the Goondiwindi community - incontestable evidence of a substantial change in attitudes. Furthermore, the generous donation by the Mayor of Goondiwindi, Aid. Bill Lee, of a pair of doors for the Aboriginal Hall at Boggabilla, was a gesture of goodwill which we warmly applaud.

**The Review recommends that other churches and socially based organisations in the area build on this encouraging start. Sporting clubs, like the Aquatic Club for example, should investigate the interest of Aborigines, especially Aboriginal children, in participating in some of their activities. Local businesses should encourage inter-racial activity in sport, music, recreational and cultural pursuits, and scholastic achievement. The Town Council should encourage, co-ordinate and assist other opportunities for inter-racial activities across a broad spectrum of interests, for the purpose of creating harmony and understanding to the benefit of all.**

**We recommend that the Town Council or the Uniting Church take the initiative by seeking to form a Cross Border Liaison Committee to co-ordinate these types of initiatives, perhaps chaired by a leading citizen of Goondiwindi with the time, skills and interest to pursue successful programs in this area.**

# **14. Recommendations**

## **1. Inter-Governmental Conflicts**

**11** A Standing Committee constituted by representatives of all relevant government authorities and of the Toomelah and Boggabilla communities should be established to monitor and supervise the achievement of further improvements in the living conditions of Aborigines at Toomelah and Boggabilla, and to solve problems between the various spheres of government, and between government and the communities.

## **2. Housing**

**21** The State and Federal Governments should urgently co-operate to provide for building standards which ensure the health and safety of residents of Aboriginal houses, and for due inspection and approval applying these standards. In this sense the standards should be comparable with those applying to houses occupied by non-Aborigines.

**2.2** In the meantime, an informal agreement should be entered into by the MPSC, the construction authorities and the Aboriginal community to ensure that housing for Aborigines complies with comparable standards of health and safety.

## **3. Roads**

**31** Construction of an all-weather access causeway over the crossing at the entrance to Toomelah should proceed with maximum speed.

**3.2** Sealing of the remaining unsealed section of the old Bruxner Highway must be given priority. The New South Wales Government is urged to provide the necessary funds for the McIntyre River crossing.

## **4. Legal Status**

**4.1** The legal status of Toomelah and other Aboriginal settlements must be clearly defined so that their rights to basic services and amenities from government are the same as those of non-Aboriginal communities in neighbouring locations.

## **5. Rates**

5.1 The Valuation of Land Act 1916 (NSW) should be amended to take account of the unique situation of Aboriginal communities, deprived of basic human rights.

5.2 The Minister administering the Aboriginal Land Rights Act 1983 (NSW) should urgently grant Toomelah an exemption from all local government rates, including all accrued rates.

## **6. Education**

6.1 The New South Wales Department of Family and Community Services and the Commonwealth Department of Community Services and Health should ensure that modern safe pre-school facilities should be provided at Toomelah as a matter of urgency.

6.2 The New South Wales Department of Education should consider financial and other incentives designed to attract staff to remote schools.

6.3 There should be better teacher/student ratios at schools with a high proportion of Aboriginal students experiencing learning difficulties.

6.4 The provision of permanent buildings for Boggabilla Central School and TAFE College must be given priority.

6.5 A bus should be provided by government or the private sector for use by Boggabilla Central School.

## **7. Health**

7.1 A new fully equipped health clinic should be provided urgently at Toomelah.

7.2 Suitable living accommodation should be provided for the resident nurse.

7.3 Arrangements should be made by the New South Wales and Queensland Governments to expand the staff numbers and facilities at Goondiwindi Hospital to cater adequately for the treatment and health education of New South Wales citizens living in this border region.

7.4 An agreement should be entered into by the New South Wales and Queensland Governments for the provision of medical and health information and training services by medical practitioners at Goondiwindi.

**7.5** The DAA should pay the currently outstanding fees of the Goondiwindi Ambulance Service for past services to Aborigines in the border region and assist Aborigines at Toomelah and Boggabilla to meet appropriate fees for the continuing use of the Service.

**7.6** The New South Wales Department of Health should urgently provide for the recruitment and training of more Aboriginal Health Workers at Toomelah.

**7.7** The bus provided for Boggabilla Central School (see Recommendation 6.5) should be made available two days per week during school hours to transport patients from Boggabilla and Toomelah to Goondiwindi for health and medical treatment.

**7.8** A forum on border health problems should be established to oversee the achievement of these and future developments.

## **8. Employment**

**8.1** Additional funds should be allocated to the consultants responsible for the Community Development Plan to permit the development of future proposals designed to facilitate the achievement of full self-determination for the Aboriginal people of the area.

**8.2** The Commonwealth Employment Service at Goondiwindi should expand existing and promote new programs to increase the availability of employment for Aborigines. It should co-ordinate with and enlist the aid of government and private sectors over a wide geographical area.

## **9. Euraba Shop**

**9.1** Funds should urgently be made available for the construction of a permanent shop at Toomelah.

## **10. Aboriginal Heritage**

**10.1** The NSW Government should introduce legislation to provide the Toomelah Community with permanent access to Old Toomelah Cemetery.

**10.2** The New South Wales Aboriginal Land Council should assist the Toomelah community with a view to making further progress in relation to the claim to Boobera Lagoon.



10.3 The Goondiwindi Town Council should encourage moderation in the Goondiwindi and District Aquatic Club so that the legitimate claims of the Aboriginal communities are heard and respected.

10.4 After consultation with the Aboriginal community, the New South Wales Government and the DAA should appoint an independent mediator to assist all the parties and interested groups to negotiate a solution to the Boobera Lagoon issue.

## **11. Inter-racial Activities**

**11.1** The Goondiwindi Town Council or the Uniting Church should take steps to form a cross border liaison committee to co-ordinate and organise innovative inter-racial programs in the region.

## Notes

1. *Toomelah Report*, Human Rights and Equal Opportunity Commission (HREOC), June 1988, Chapter 9.
2. *Progress Report Toomelah*, Moree Plains Shire Council (MPSC), December 15, 1988, p 3.  
*ibid*, p 4.
4. DAA response to HREOC, December 15, 1988, Para 9.22.
5. *Progress Report 7bomelah*, MPSC *op cit*, p 5.
6. *ibid*.
7. *Toomelah Report* (HREOC), *op cit*, p 64.
8. Council's engineer advised that the span was too great for a Bailey bridge to be installed successfully.
9. DAA response to HREOC, *op cit*, para 922.
10. *Progress Report Toomelah* (MPSC), *op cit*, p 7.
11. Parts 2,3,4.
12. *New South Wales Legislative Assembly Hansard*, 12 October, 1988.
13. *Toomelah Report*, Moree Plain Shire Council, July 20, 1988, p 12.
14. *Toomelah Report* (HREOC), *op cit*, p 64.
15. See Advice by NSW Crown Solicitor, appended to *Toomelah Report* (MPSC), *op cit*.
16. *Toomelah Report* (HREOC), *op cit*, p 36.
17. *I b i d*.
18. *Toomelah/Boggabilla Progress Report*, New South Wales Department of Education, 8 December 1988, p 5.
19. *ibid*,p 4.
20. Community Development Plan for the Aboriginal Communities of Toomelah and Boggabilla, MSJ Keys Young, November 1988, p 2.
21. *ibid*, p 3.

# Acknowledgments

The following Commission staff were involved in the compilation of this Review:

Murray Chapman, Aboriginal Policy Adviser: Advice and editing of report

John Hall, Legal Consultant: Research, writing and editing of report

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