

Federal Labor MP 'shocked' Queensland is appealing Palm Island discrimination ruling

Cathy O'Toole says Palaszczuk government's decision to overturn landmark ruling an 'unfair and unjust' move that reopens wounds in Indigenous community



Herbert MP Cathy O'Toole has asked the Queensland government not to overturn the discrimination ruling against police on Palm Island, saying she has the backing of Bill Shorten and Indigenous federal colleagues. Photograph: Andrew Rankin/AAP

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25 January 2017

A Queensland federal MP with the backing of the federal Labor opposition has criticised the Palaszczuk government for seeking to overturn a landmark federal court discrimination ruling against police on Palm Island.

The Herbert MP, Cathy O'Toole, said she was shocked the Queensland government had lodged the appeal, which was an "unfair and unjust" move that reopened wounds in an Indigenous community that gained long-awaited closure through the court case.

O'Toole called on the state government to drop the appeal, saying she had "federal support" for her stand from the opposition leader, Bill Shorten, and Indigenous federal colleagues Patrick Dodson, Malarndirri McCarthy and Linda Burney.

Burney, the shadow services minister, visited Palm Island on Tuesday with O'Toole, who said the community's hurt at feeling "betrayed" by the state government was palpable.

The federal court ruled last month that police unlawfully discriminated against the island's Indigenous residents during a death in custody investigation and their handling of subsequent riots in 2004.

Justice Debbie Mortimer found discriminatory treatment by police was an "affront to the rule of law", marked by a "sense of impunity" in officers investigating the death of Cameron "Mulrunji" Doomadgee and disregard for community perception of their investigation.

The class action was spearheaded by Lex Wotton, once jailed for inciting the riots, who together with family members was awarded a total of \$220,000 in damages, paving the way for claims by others.

Mortimer said she would not order an apology by police to the community, but directed the commissioner of police to consider whether one is appropriate.

Instead, the attorney general, Yvette D'Ath, instructed the director of public prosecutions to appeal the case on behalf of Queensland police. The appeal, filed for the state of Queensland on 17 January, asked for the case to be thrown out on the basis the evidence did not support Mortimer's findings, and sought a fresh trial.

O'Toole, whose electorate includes Palm Island, told Guardian Australia: "I am shocked."

"I just can't believe it, because the people on Palm deserve to be treated with dignity and respect like any other citizens, and their human rights should be the same as any other citizens.

"For these people, this has been going on for 14 years. They finally felt that a wrong has been righted. They finally felt that they've got some justice.

"[The court] finally recognised that it was discriminatory behaviour and they could draw a line in the sand and move on with their lives as a community.

"And now as one community member said to me today, 'We just feel like we've had this massive kick in the guts' – his exact words."

O'Toole said: "I have federal support. I've spoken to Bill Shorten, Linda Burney, Patrick Dodson, Malarndirri McCarthy, Warren Snowdon and they have supported my stand."

"I take my role representing my community very, very seriously and I think this is an injustice that need not have happened and does not need to happen.

"What I am saying is for me, the people I represent and support and respect, I just think that it's unfair and unjust."

The Queensland Greens spokeswoman, Kirsten Lovejoy, said the appeal filing "in the lead-up to Invasion Day [Australia Day]... is like rubbing salt in wounds that haven't had a chance to heal".

She said the events around Mulrunji's death remain "a blight on Aboriginal justice in this state".

She noted a coroner's finding that Mulrunji's injuries were akin to a car crash victim's and that CCTV footage of his incarceration "mysteriously went missing".

"Ironically it was the Palm Island community of friends and family that bore the brunt of the law, with Lex Wotton spending 19 months in prison," Lovejoy said.

"In the end the federal court found that the Queensland police service's failure to suspend [arresting police officer] Chris Hurley after Mulrunji's death was in fact unlawful discrimination. Lex and his family, along with Mulrunji's family, will carry the hurt of this incident for the rest of their lives. The federal court finding in their favour was an acknowledgement of the enormous pain they and the Palm Island community have suffered."

The premier, Annastacia Palaszczuk, has declined to say whether she personally supported the appeal. But she said on Tuesday: "Well, the government lodged the appeal, we are now letting that appeal take its course."

However, Palaszczuk said she had asked D'Ath to "get some further legal advice and we are awaiting that legal advice so I won't be making any further comment until we receive that".

Asked about Burney's visit to Palm Island, Palaszczuk said: "I support as many people as possible going to Palm Island, I was there just recently at the end of last year. It is a wonderful community under the leadership of the mayor Alf Lacey who is doing an absolute wonderful job there. I had the

opportunity to have a tour of the island and meet with the residents and Palm Island is a very, very good place to live.”

O’Toole said her and Burney’s visit had been pre-arranged to examine issues with the Centrelink debt recovery debacle, a significant issue on the island, and happened to closely follow the federal court appeal.

O’Toole said she was “not necessarily privy” to conversations that would occur in the Labor party across federal and state lines on the issue.

“But very certainly, my federal colleagues, that I respect greatly, know my position, respect it, and support it,” she said.

O’Toole said she had spoken to Wotton on Tuesday and “found him to be an incredibly inspirational man”.

“He is very calm, very patient – I would never have the patience he’s got – he is just letting things flow. But of course he feels hurt and his community feels really betrayed.”