

including a portion of the Arthur Pieman Conservation Area. Mr Hine said that some of his fellow councillors did not fully understand the implications of a native title claim

being lodged in their local government area.
Circular Head Chronicle, 13 March 2003.

REGISTRATION TEST

The National Native Title Tribunal posts summaries of registration test decisions at <www.nntt.gov.au>. The following decisions are listed for March/April. The first number following the name is the NNTT Application Number, the second is that of the Federal Court. If an application has not been accepted, this does not mean that native title does not exist. The applicants may still pursue the application for the determination of native title. If an application does not pass the registration test, the applicant may seek a review of the decision in the Federal Court or re-submit the application.

Rockhampton-Brunette Downs	DC03/1 D6001/03 Not Accepted	Town of Larrimah	DC02/24 D6025/02 Not Accepted
Deep Well	DC03/2 D6002/03 Accepted	Bidwell Clan	VC02/1 V6001/2002 Not Accepted
Gan Bruce #2	NC02/5 N6003/2002 Not Accepted	Lorella Nathan River	DC02/30 D6031/2002 Not Accepted
New Wanderrie Road	DC02/31 D6032/02 Not Accepted	Byron Bay Bundjalung People #3	NC01/8-1 N6020/01 Accepted
The Githabul Peoples #3	NC95/11-3 NG6019/98 Accepted		

APPLICATIONS CURRENTLY IN NOTIFICATION

Closing Date	Application Number	Application Name
25/06/2003	QC02/32	Kudjala People #5
8/07/2003	QC02/2	Warral & Ului People
	QC02/4	Mualgal People #2
	QC02/34	Kalkadoon People #2
	QC02/3	Badu & Moa People #2

For further information regarding notification of any of the applications listed contact the National Native Title Tribunal on 1800 640 501 or www.nntt.gov.au.

RECENT PUBLICATIONS

Native Title Report 2002.

By Dr B. Jonas

Aboriginal and Torres Strait Islander Social Justice Commissioner, Human Rights and Equal Opportunity Commission.

The Human Rights and Equal Opportunity Commission recently released the *Native Title Report 2002* by the Aboriginal and Torres Strait Islander Social Justice Commissioner. It is the fourth report written by Dr Bill Jonas, and possibly the final one (in this form), if abolition of Dr Jonas' position, as currently proposed by the Howard Government, proceeds.

Ten years after Mabo, the Report investigates the principles of recognition and extinguishment of native title as enunciated by Australian courts. Dr Jonas notes the broad possibilities opened up by the recognition of native title have been sidelined in favour of 'practical reconciliation'. Despite this diversion, there is widespread agreement in two areas. Firstly that for policy to assist in alleviating deprivation, Indigenous people must participate in its formulation and implementation. Secondly, Indigenous people need a sustainable economic base.

The Report suggests native title still has an important role to play in addressing disadvantage. This importance lies in remembering that the essence of native title refers to relationships between Aboriginal people and their land. In aiming to increase Aboriginal participation in policy formulation and implementation we must be cognisant of the political structures emanating from relationships with land which continue to shape communities. As for economic development, the Report suggests land can be viewed as an asset for development, as seen with the Burup Peninsula, where agreements have been made protecting culture and gaining benefits

as a result of native title. Dr Jonas also points out the limitations imposed by restrictive legal definitions of title, and the failure of governments to implement native title into policy options.

Chapter One focuses on these legal restrictions via a reading of the *Yarmirr*, *De Rose*, and *Yorta Yorta* cases. As to the question of recognition, Dr Jonas suggests these cases show the law has evolved not as a vehicle of, but a barrier to recognition. These barriers specifically refer to a failure to recognise sovereignty, the conceptualisation of native title as rights and interests separate from the laws and customs which create them – the bundle of rights – and the statutory definition of title.

Following the question of recognition, Chapter Two and Three address the issue of extinguishment. Dr Jonas importantly points out there is no possibility of co-existence in the 'hard and driving logic' of the inconsistency test. Chapter Four looks at the implications of *Miriuwung Gajerrong* and *Wilson v. Anderson* for the question of extinguishment, as well as some possibilities for ameliorating its effects.

In looking at 'the way forward', Chapter Five outlines the way human rights principles can be used to alter our domestic law to be consistent with international law. Possible options canvassed by the Report include legislative change, treaty, constitutional reform, or even, as raised by Justice McHugh, a new arbitral system. Given the view of the Court that it is the Act rather than the common law which directs the native title process, Dr Jonas is surely correct in his call for a new process of political evaluation – a process which must look to maximise the potential of native title to benefit Indigenous peoples.