

**Parliamentary Joint Committee on
Native Title and the Aboriginal and
Torres Strait Islander Land Fund**

OPERATION OF THE NATIVE TITLE ACT

**Inquiry Into The Effectiveness Of
The National Native Title Tribunal**

Submission No:14

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OUR REFERENCE: **SMc/FM 4.07.003.04**

Council Chambers,
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18 October 2002

The Secretary
Parliamentary Joint Committee
Native Title and Aboriginal and Torres Strait Islander Land Fund
Parliament House
CANBERRA ACT 2600

Facsimile 02-6277 5866

Dear Sir/Madam

INQUIRY INTO THE EFFECTIVENESS OF THE NATIONAL NATIVE TITLE TRIBUNAL

On behalf of Council I wish to advise that Council has major concerns with the operations of both the Tribunal and the existing native title legislation.

An example, which is typical of most rural regions in Western Queensland, is to be found in Hughenden.

DEVELOPMENT INDUSTRIAL ESTATE HUGHENDEN

Council has been seeking to develop a Light Industrial Estate on an area of the Pasturage Reserve on the edge of Hughenden for the past three years. Due to the area of land being held by Council as a Pasturage Reserve, it can't simply be converted to freehold due to Native Title Interests.

The following information is provided as background -

Council is proposing to develop a Light Industrial Estate to facilitate the expansion of current businesses and attract new businesses to Hughenden. Council doesn't have other suitable land available to it for development of this kind. The land identified for the Light Industrial Estate is generally in the vicinity of the Flinders Highway on the western outskirts of Hughenden and comprises an area of 56 hectares. The current tenure is Pasturage Reserve with Council as the Trustees. Council has an application for freehold with the Cloncurry Office of the department of Natural Resources and Mines.

There are currently two applications under the Native Title Act 1993 (Cth) which exist in relation to the land. The applications are as follows -

1. Flinders Shire Council (Q6002/00)(QN00/1)- filed January 2000; and
2. Jirandali People (Q6008/00)(QC00/9)- filed 25 August 2000.

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On the 17 October 2000, the Federal Court ordered that the National Native Tribunal mediate the overlap area between the two applications.

Council, our legal representatives, the Jirandali People and their legal representatives have had a number of teleconferences and meetings to discuss the progression of the applications. The Tribunal mediated a number of these meetings.

Council and the Jirandali People have generally agreed on the following staged approach to progressing both the non-claimant and the broader Native Title claimant application.

It should be noted that Council is committed to all of the matters finally agreed. However, these matters will have been agreed against the background of Stage 1 being completed in the near future.

Stage 1

- The Jirandali People agree to the grant of freehold title by the Queensland State Government to the Council for part of the land (35 hectares) included in Council's non-claimant application.
- The identification and transfer of an agreed area of land to the Jirandali People in consideration for their consent to the grant of freehold title over an area by the State to Council. The Jirandali People have indicated a suitable site that Council has agreed to.
- The Jirandali People have acknowledged Council's desire to "fast track" Stage 1.

Stage 2

- Implementation of a draft Memorandum of Understanding (MOU) between Council and the Jirandali People. The MOU establishes a communication and consultation protocol and identifies issues for further discussion by a working group comprised of representatives from the Jirandali People, the Inland Land Council (ILC) and Council. The agreement has provision for a State representative to be part of the working group although this is not seen as critical.

The contents of the Schedule to the MOU has been generally finalised and includes the following -

- The development of the balance of Council's non-claimant application for light industrial purposes;
- The agreement of an appropriate process for resolving Council's and the Jirandali Peoples' interests within the Jirandali claimant application;
- The development of a cultural heritage planning strategy for the Shire;
- The development of a co-management strategy for identified Council Reserves;
- Discussion towards establishing an Aboriginal Consultative Committee and an Aboriginal Employment Policy for Council; and
- The development of a Cross-Cultural Awareness Policy for training Councillors and Council Staff.

There are a number of additional matters that Council will be nominating for inclusion on the schedule.

Queensland Government from Native Title Services Section has been involved in discussions so that the States agreement in principle can be implemented by way of an Indigenous Land Use Agreement. The involvement of the State is necessary for the surrender/extinguishment of Native Title to occur on the grant of freehold to Council.

Although all parties have generally agreed to the ILUA, the main issue is trying to get the Land Council on behalf of the traditional owners to sign off on both the ILUA and the MOU so that the state can issue freehold title to Council. No major issues have been raised by the Land Council, only the fact that they claim not to have the resources.

If the Tribunal had the power to make rulings or the ability force to parties to complete negotiations then long costly court proceedings which this Council is about to commence will occur. This is an absolutely ridiculous situation when all parties agree.

Council is willing to provide further detailed information to help progress this issue that is holding back rural Australia. We look forward to Parliament taking note of our concerns and putting legislation in place that is more fair and equitable.

Yours faithfully

STEPHEN McCARTNEY
CHIEF EXECUTIVE OFFICER

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