

# 7. CHAPTER SEVEN: INDIGENOUS PROFILE AND ISSUES

*This chapter was produced by the Native Title representative bodies of the South East Queensland RFA region after considering comments from Commonwealth and State governments and from other stakeholder groups.*

## 7.1 INTRODUCTION

This chapter outlines the social issues facing Indigenous people in the South East Queensland bio-region and the potential social, economic, cultural and Native Title effects that the South East Queensland Regional Forest Agreement (SEQ RFA) may have on Indigenous people.

The chapter analyses:

- the involvement of Indigenous groups in the SEQ RFA process to date
- socio-demographic data for Indigenous people in the SEQ RFA region, including comparisons with the Queensland-wide Indigenous population and, where appropriate, the total population of Queensland
- potential social and economic issues that may be impacted by the RFA
- the Indigenous cultural heritage implications of the RFA
- the Native Title implications of the RFA
- potential processes for resolving legal, tenure and management issues for Indigenous people whose rights may be affected by the RFA.

## 7.2 INDIGENOUS INVOLVEMENT IN THE RFA TO DATE

The SEQ RFA Scoping Agreement between the Queensland and Commonwealth Governments states in Clause 21,

*both Governments undertake to consult fully with Indigenous communities on all aspects of the RFAs consistent with the requirements of State and Commonwealth legislation.*

Furthermore Scoping Agreement Attachment 1.1(f) states the process will,

*identify Indigenous cultural heritage values within forested areas of the region and within the context of the Native Title Act 1993.*

The three Native Title Representative Bodies (NTRBs), FAIRA Aboriginal Corporation, Gurang Land Council and Goolburri Land Council were formally invited to participate in the SEQ RFA process in February 1997. The NTRBs have participated in a number of the RFA consultative mechanisms. These include:

- Forest Reference Panel
- Environment and Heritage Technical Committee

- Social and Economic Technical Committee
- Ecologically Sustainable Forest Management (ESFM) Committee
- Indigenous Issues Working Group
- Integration Technical Management Committee.

However, Native Title Representative Bodies can only facilitate the participation of Aboriginal people, both traditional owners and historical associates. As such, the involvement of NTRBs in RFA committees is only a part of Aboriginal participation in the RFA. The NTRBs believe that only the direct input of Aboriginal people, speaking on behalf of their own country, is necessary to meet the Governments' stated intention "to consult fully with Indigenous communities on all aspects of the RFAs ...". The role of the NTRBs is to facilitate the involvement and input of Aboriginal people to SEQ RFA options for possible forest tenure and management.

In October 1997 the NTRBs put a comprehensive submission on Indigenous involvement in the SEQ RFA to Governments.<sup>1</sup> This submission, which detailed the Indigenous social, economic and cultural heritage work needed for the RFA, was rejected by Government, with Government agencies only prepared to deal with cultural heritage issues and then only through agency-controlled projects. When the RFA social and economic reports were received it was apparent that Government agencies involved had failed to examine past or potential future impacts of changes in forest use on forest-dependant Indigenous communities.

The NTRBs negotiated with Government in mid-1998 to undertake cultural heritage and social profile projects to address the deficiencies in the RFA Indigenous data. To date, the NTRBs have been funded to undertake three RFA projects. These are:

- EH 6.1.1 South East Queensland Indigenous Cultural Heritage Data Audit
- EH 6.1.2 South East Queensland Indigenous Cultural Heritage Management Guidelines
- SE 5.2.2 Indigenous Communities Issues and Social Profile Case Studies.

Additionally, the Commonwealth and Queensland Governments are funding a project to review the impacts of other resource management changes on Indigenous communities:

- SE 5.1.2 Literature Review of the Impact of Changes in Forest Use on Indigenous Communities.

A summary of the objectives and expected outcomes of these projects are contained later in this chapter.

### 7.2.1 Indigenous Rights that may be affected by the RFA

The NTRBs believe Indigenous people and communities in the SEQ RFA area must have full involvement in all aspects of the SEQ RFA processes as their Native Title and other rights may be affected by RFA outcomes, e.g.

- legal rights under Australian Common Law, including:
  - exclusive possession / co-existence
  - access
  - hunting, gathering and fishing
  - residence
  - practice of lawmaking, ceremonial and religious activities
- rights to own, protect, manage or control cultural heritage, including:
  - natural areas
  - places and landscapes of spiritual significance including sacred places
  - physical remains of material culture
  - human remains

- historical places and areas
- intellectual and cultural property rights.
- rights to participate in active, meaningful ways in the management of the entire landscape and resources.

### 7.2.2 Role of Traditional Owners

The NTRBs have legislative responsibility to advocate for, and protect, the Native Title interests of Aboriginal people. Under both the Native Title Act 1993 (C'th) as amended and the Aboriginal Land Act 1992, Aboriginal people have to show a traditional connection to the land.

In both a customary and legal context, Traditional Owners speak for country. Whilst comprehensive research is still ongoing into the complex matter of who speaks on what issues for a particular parcel of land, it is thought that there are some 25 traditional owner groups and approximately 25 Native Title claims currently registered in the SEQ RFA region. Some traditional owner groups may have put in separate Native Title claims for different parts of their country whilst other groups have not yet submitted claims. Also, existing Native Title claims should not be assumed to reflect the full range of Traditional Owner associations with the land.

Early European settlement in Australia decimated a complex, functioning and sustainable social system, with Aboriginal people being displaced from land, sent to missions and taken away from their families. The attempts to prohibit Aboriginal people from practising their culture means that little information is publicly known about who are the traditional owners of lands within the SEQ RFA. The traditional owners themselves have the information. Family linkages still exist and cultural information important to the RFA process is still retained within these families.

The representative bodies, possibly with some resource and technical support, can help contact and involve as many traditional owners as possible in the process. The importance of traditional owner involvement in the SEQ RFA was outlined in the NTRB's first submission for funds in September, 1997. The NTRBs believe that the refusal of Governments to fund internal consultation mechanisms for Aboriginal people has resulted in a major deficiency in the process to date. Identification and location of as many traditional owners as possible is critical for appropriate Indigenous input to the RFA process in line with undertakings given in the SEQ RFA Scoping Agreement and other documents.

### 7.2.3 The role of Historical Associates

Historical associates is a term used to describe Aboriginal people who are currently living in a town or area outside of their traditional lands. Historical associates cannot speak for country or hold Native Title rights in the area but have the same rights of involvement and interests as any other person potentially affected by the RFA. They may also be important sources of information on historical heritage matters and more recent interaction between Indigenous and non-Indigenous communities. Historical associates will certainly have an interest in any changes in forest management and in potential economic opportunities, which may arise from the process.

## 7.3 SOCIO-DEMOGRAPHIC DATA FOR INDIGENOUS QUEENSLANDERS

The data and analysis presented in this section relates to figures for the Indigenous population of Queensland as a whole. Demographic data on Indigenous people in Queensland (as it is presented in the ABS publication No.2034.3, Census of Population and Housing, Aboriginal and Torres Strait Islander People, Queensland) is presented as Queensland totals and with breakdowns according to ATSI regions.

These regions are legally prescribed areas for the purpose of administration by ATSI. The

region boundaries correlate with collector district boundaries, however there is little correlation between these regions and any other planning unit.

As such, the SEQ RFA biogeographic region as a planning unit does not correlate with any single ATSI region. Whilst the Brisbane ATSI region falls entirely within the bounds of the SEQ RFA bio-geographic region, the ATSI regions of Roma and Rockhampton also fall partly within the SEQ RFA region.

Most of the graphs shown in this section will include information specific to the three ATSI regions i) Brisbane, ii) Roma, and iii) Rockhampton, which fall into the SEQ RFA bio-geographic region as well as information about the total Queensland Indigenous population and the total Queensland population.

The indicators analysed herein are:

- Age structure
- Income
- Employment
- Housing.

The data presented here is all derived from Australian Bureau of Statistics (ABS) information from the 1996 census. It is important to note that until the national referendum of 1967, Aboriginal people were not counted in any national census. This, as well as government policies of forcible removal of children of Indigenous descent from their parents since 1911 and the assimilation policies of the 1940s, have affected whether many Australian Indigenous people identify as Aboriginal and/or Torres Strait Islander people. Fear of discrimination due to identifying as Indigenous, and lack of awareness about their own cultural background, for both children taken away and those whose relatives were taken, no doubt still affect whether people choose to identify themselves as Indigenous to a government agency such as the ABS.

*“There are few Aboriginal and Torres Strait Islander people whose lives have not been touched by misguided and barbaric policies which saw children taken away from their families and communities, ostensibly ‘for their own good’.*

*The legacy of assimilation reaches into each new generation of Indigenous Australians and continues to cause sadness, despair, alienation and loneliness. What was inflicted on Indigenous Australians was cultural genocide.*

*The effects (of practices such as these) have resulted in inter-generational trauma for Indigenous Australians, as well as disadvantage, lack of access and equity and lack of social justice.”*

(Statement by Ms Lois O’Donoghue, ex-Chairperson of ATSI, to a hearing of the National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from Their Families, 1997)

Identifying as Aboriginal and /or Torres Strait Islander is one of the indicators used in creating the Index of Relative Socio-economic Disadvantage used as part of the ABS Socio-economic Indexes for Areas (SEIFA). This attests to the recognition that Aboriginal and Torres Strait Islander people are discriminated against in mainstream Australian society. The SEIFA indexes and the indicators selected for use in each of these were developed by ABS employees and academics from Australian universities.

All the indicators examined in this brief social profile (except for rates of participation in CDEP) are component indicators in indexes for Socio-economic Disadvantage as used in SEIFA.

Initial socio-demographic data collected to date provides some context for this discussion. The data highlights the unique social demography of Aboriginal people in comparison to other sectors in Queensland and the SEQ RFA region.

The data shows that there is a significantly different age structure within the Aboriginal community when compared to other sectors. The Aboriginal community has a greater number of children under 15, a greater number of single parent families and fewer people living beyond 65 years of age. In relation to unemployment and income, Aboriginal people are more than twice as likely to be unemployed, earn significantly less and participate less in the labour force. Further to this, Aboriginal people on the whole have fewer formal qualifications than other sectors of the community.

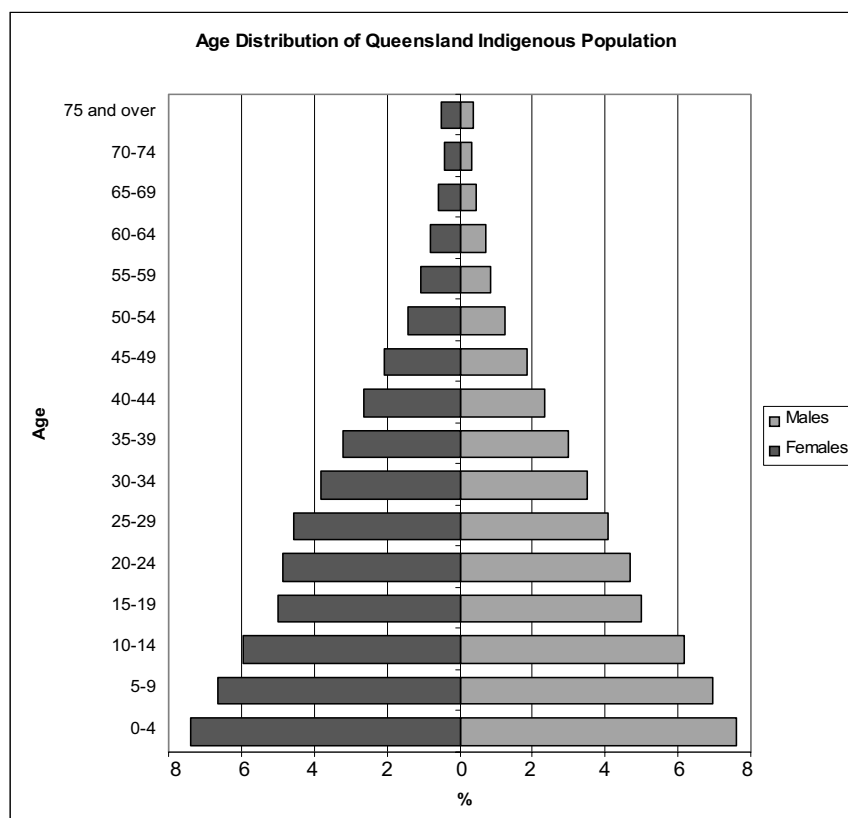
### 7.3.1 Age Structure

The age structure of Queensland's Indigenous people (fig 7.1) starkly contrasts with that of the whole population of Queensland (fig 7.2). The age distribution of the population of Queensland is indicative of a stable population with evidence of declining birth rates, better life expectancy for women than for men and some evidence of the post WWII baby boom.

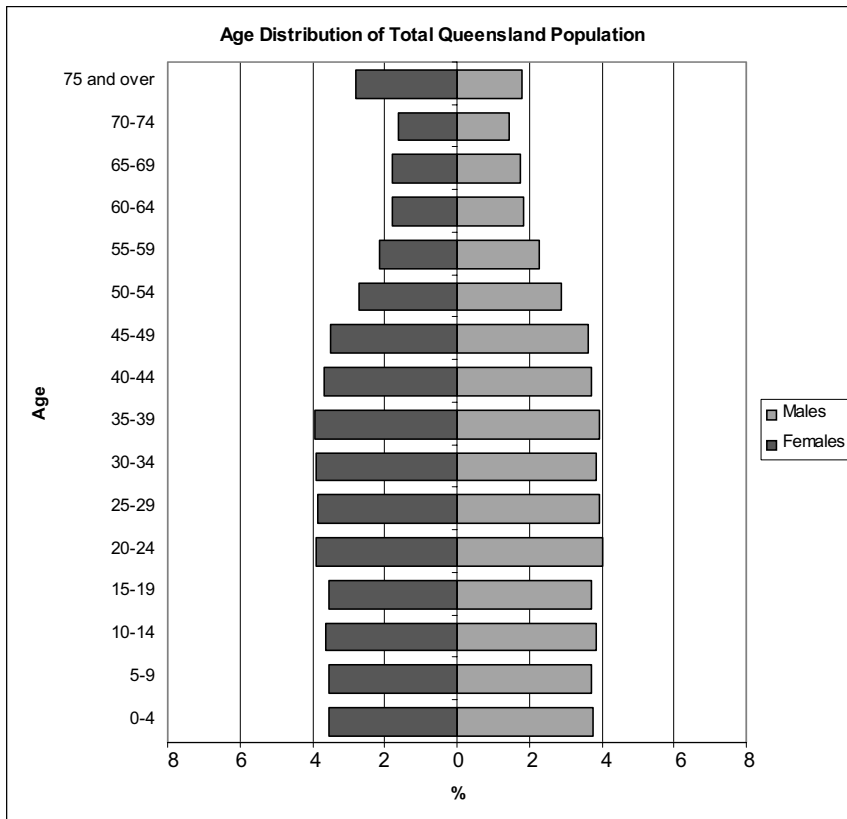
The age structure of the Indigenous population of Queensland shows that there is a very high proportion of young people, and conversely, a very small proportion of older people in the population. Where there was 22 percent of the total population of Queensland who were aged under 15 years, 40.6 percent of the Queensland Indigenous population was under 15 years of age. Only 2.6 percent of the Indigenous population of Queensland in 1996 was aged over 65 years as compared with 11.2 percent of the total Queensland population.

Such an age structure may reflect much of the history of Indigenous people in Australia. Factors contributing to an unwillingness to identify as an Indigenous Australian include government policies which sought to separate Indigenous children from their families

**FIGURE 7.1 AGE DISTRIBUTION OF TOTAL QUEENSLAND INDIGENOUS POPULATION**



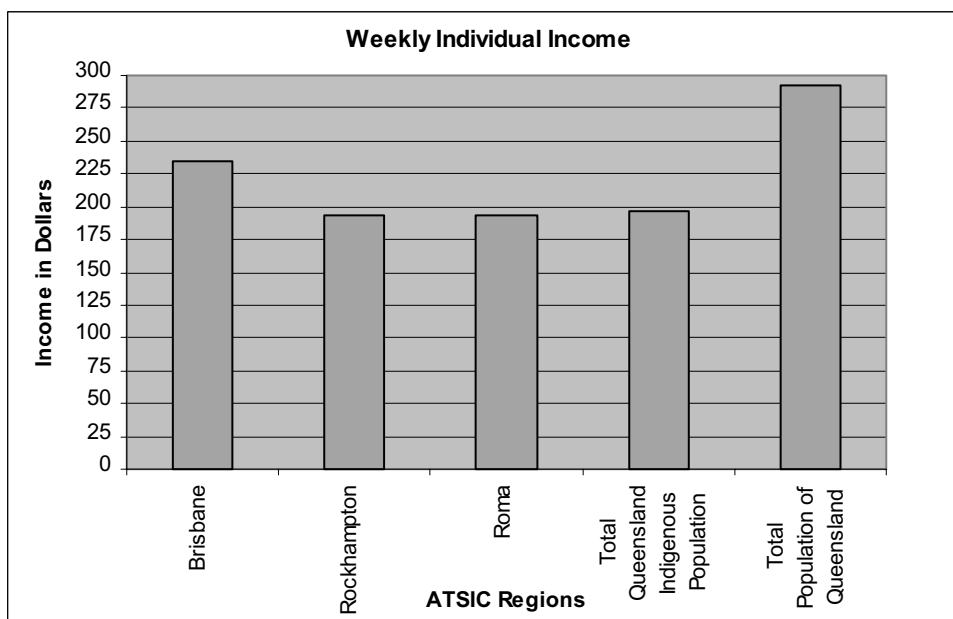
**FIGURE 7.2 AGE DISTRIBUTION OF TOTAL QUEENSLAND POPULATION**



**7.3.2 Income**

The average weekly individual income for Aboriginal and Torres Strait Islander people living in Queensland is significantly lower than for the State population as a whole (see fig 7.3). Although Indigenous people in the Brisbane ATSI region have a relatively high average weekly individual income (\$234) when compared to that of the Total Queensland Indigenous Population (\$195.88), that income is still substantially less than the average weekly income of the Queensland Population as a whole (\$293).

**FIGURE 7.3 WEEKLY INDIVIDUAL INCOME ( INDIGENOUS POPULATION)**



The other ATSI regions which partially fall into the SEQ RFA biogeographic region, however have average weekly incomes lower than that of the Total Queensland Indigenous population (with Roma having an average of \$194 and Rockhampton \$193).

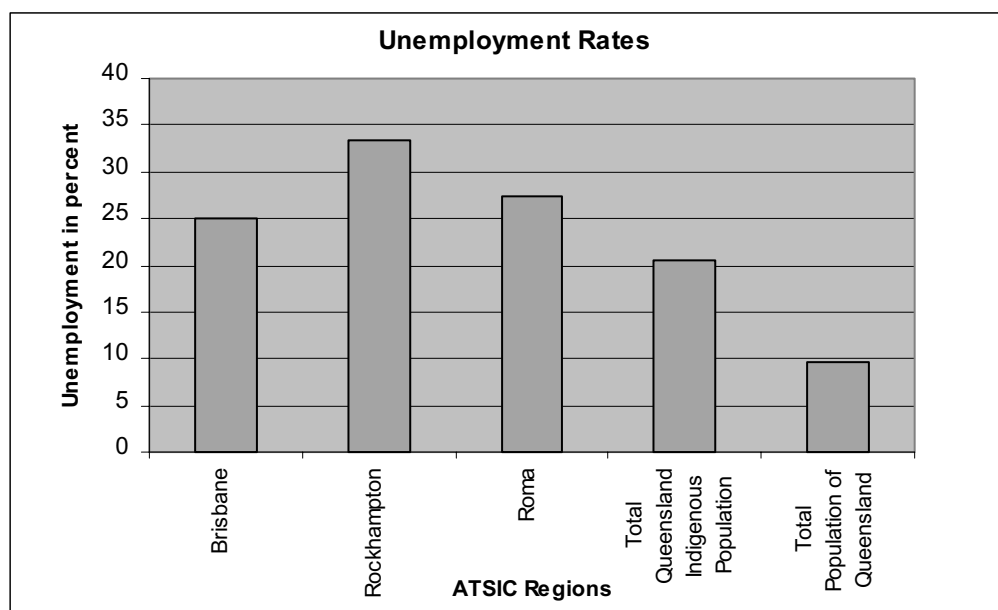
These figures indicate both relative and absolute poverty for the Indigenous people of Queensland.

### 7.3.3 Employment

#### Unemployment Rates

The unemployment rate for Indigenous people in Queensland at (20.47 percent) is more than double the unemployment rate for the total population of Queensland of 9.7 percent (fig 7.4). All of the ATSI regions which fall wholly or partially into the SEQ RFA region have unemployment rates up to three times higher than the unemployment rate for Queensland as a whole.

**FIGURE 7.4 UNEMPLOYMENT RATES (INDIGENOUS POPULATION)**

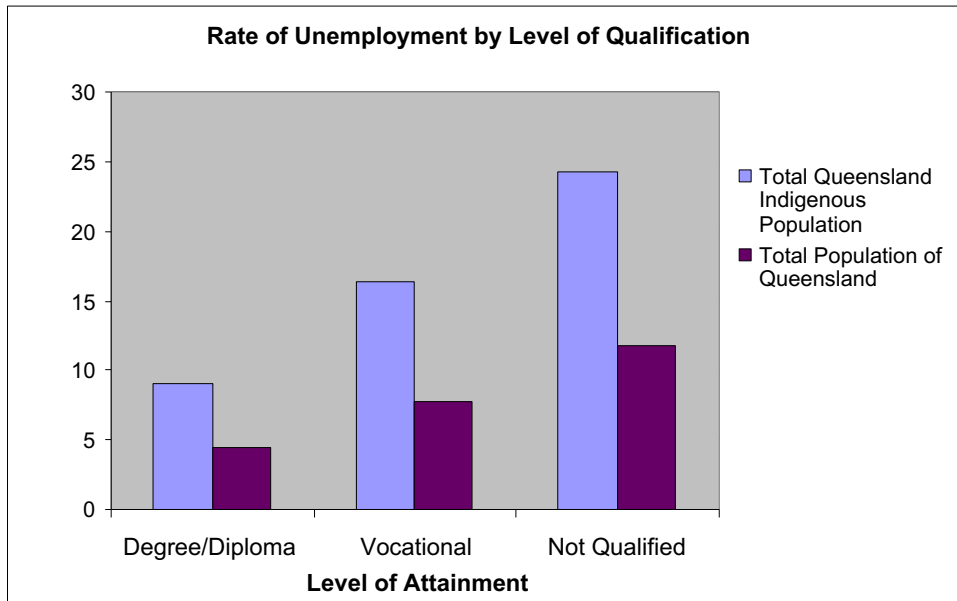


#### Rate of Unemployment by Level of Qualification

High rates of unemployment are also indicative of general poverty. Whilst there is a strong correlation between levels of education and qualification and rates of unemployment, Aboriginal and Torres Strait Islander people are still less likely to be employed than a member of the non-Indigenous population with the same level of qualification (fig 7.5).

Whilst the years from 1986 to 1996 show a clear trend of increasing participation by Indigenous people at educational institutions, rates of attendance and attainment of qualifications for Indigenous Queenslanders are significantly lower than for the Total Queensland Population. Where 31.5% of the total population of Queensland has a post-secondary qualification, only 12.9% of the Indigenous population of the State has attained a post-secondary qualification.

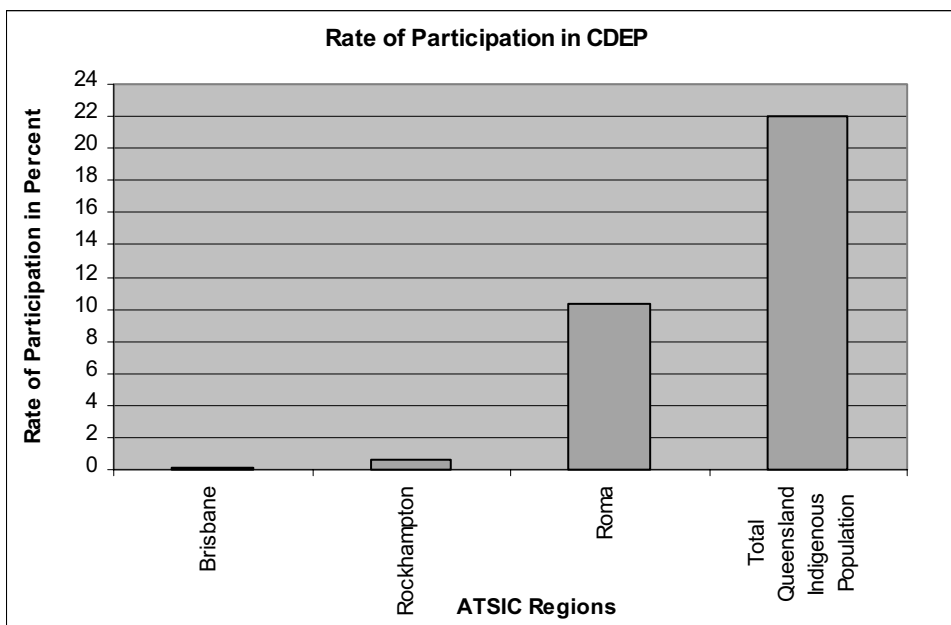
**FIGURE 7.5 RATE OF UNEMPLOYMENT BY LEVEL OF QUALIFICATION**



**Community Development Employment Projects (CDEP)**

CDEP employs 13 percent of the Indigenous labour force. Of these 67.3 percent are male and 67 percent work on a part time basis. Participation in CDEP is not as significant for the ATSI Regions falling into the SEQ RFA region as it is for the Indigenous population of Queensland (fig 7.6). This is partly attributable to the fact that most of the CDEP work is done in areas outside urban zones.

**FIGURE 7.6 RATE OF PARTICIPATION IN CDEP**

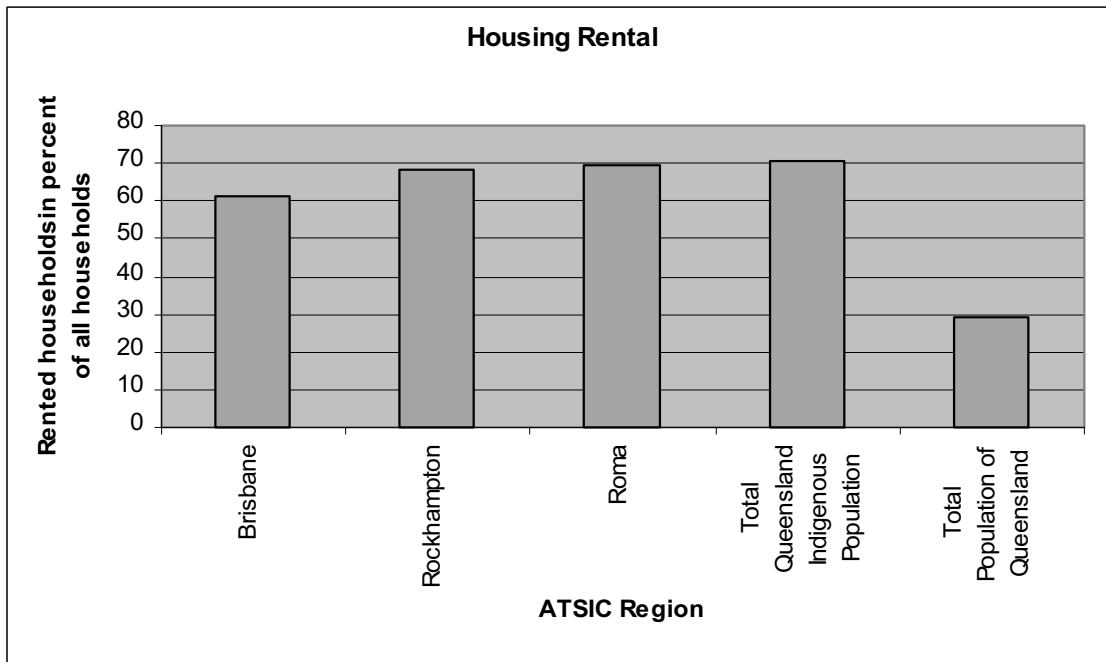


**7.3.4 Housing**

**Rate of Housing Rental**

A far higher proportion of the Indigenous people in Queensland live in rental accommodation than the proportion of the total State population who rent (fig 7.7).

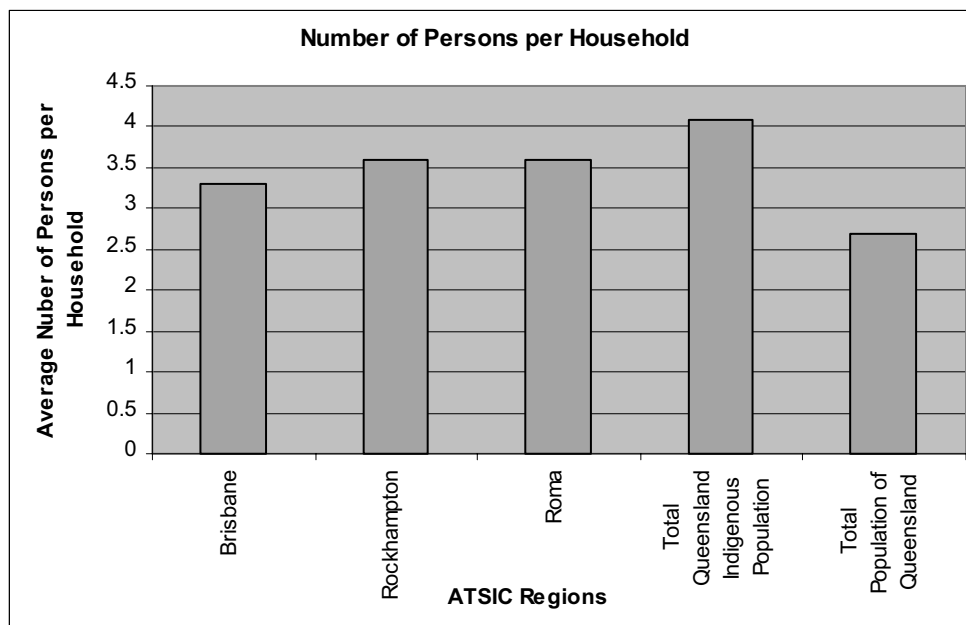


**FIGURE 7.7 HOUSING RENTAL (INDIGENOUS POPULATION)**

A high proportion of people in rental housing may indicate a lack of financial capital available to invest in property. Historically, non-Indigenous Australians have seen home ownership as a key aspiration and high rates of home ownership have been used to represent Australia as a land of relative affluence. In such a context, it is reasonable that rates of housing rental would be seen to be an indicator of poverty, however, this supposes much about aligned aspirations for Indigenous Australians.

### Number of Persons per Household

Indigenous people in Queensland on average have more people living in each house than the total population of the State as a whole (fig 7.8).

**FIGURE 7.8 NUMBER OF PERSONS PER HOUSEHOLD (INDIGENOUS POPULATION)**

Having a high number of people per household is used as a measure of poverty. This measure is however biased towards cultural norms of small family groups, where the notion of extended family may be far stronger for many Indigenous people. However, the statistical data of high numbers per household for the Indigenous population of Queensland indicates high levels of poverty, overcrowding and resulting health problems. The causative factors range from discrimination in the rental market to a lack of public housing stock.

### 7.3.5 Conclusion

Aboriginal and Torres Strait Islander people in Queensland are socio-economically disadvantaged when compared to the total population of Queensland. The Indigenous population has an age structure with a large proportion of young people and a small proportion of older people. Indigenous people have lower incomes, higher rates of unemployment, lower levels of education and higher rates of housing rental than the Queensland population as a whole.

Indigenous people in the ATSI regions which fall wholly or partly into the SEQ RFA region are a significantly socio-economically disadvantaged group. Indigenous communities in the SEQ RFA region which also have a reliance on local forests are highly likely to be sensitive to both direct and indirect impacts (ie flow-on employment in service sectors etc) of changes in forest use and management.

## 7.4 SOCIAL ISSUES

A range of Indigenous social issues will potentially be affected by the SEQ RFA. These include:

- access rights
- integration of social, cultural, economic and environmental policies through joint management regimes to ensure sustainable and culturally appropriate development
- utilisation of indigenous knowledge and experience to achieve effective and sustainable land use management;
- resource allocation and sharing
- forest-based employment and training
- cultural heritage ownership, intellectual property rights and management as fundamental to the maintenance of Indigenous society;
- Native Title rights
- economic and social development
- hunting, gathering and fishing
- residence
- practice of lawmaking, ceremonial and religious activities
- community infrastructure and development (eg health and social services, administration, administration of justice) in forest dependent Indigenous communities.

These issues will need to be considered in the development of RFA options for the future tenure and management of SEQ bioregion forests, although some issues (eg Native Title) will ultimately be resolved through processes that are separate from the RFA and therefore must not be undermined by the RFA processes.

As previously detailed, the original NTRB submission in October 1997 to consider Indigenous cultural heritage, social and economic RFA issues through an holistic work program was rejected by Government. However, subsequent RFA social and economic projects lacked any examination of Indigenous issues. The Steering Committee therefore belatedly approved two additional social projects to address these issues at least partially.

#### 7.4.1 RFA Indigenous Social Impact Projects

Government commitments through the SEQ RFA Scoping Agreement include commitments to Indigenous attitudinal assessments, social assessment of case study communities and social impact assessment (Scoping Agreement Attachment 1g & 1h). Two Indigenous social assessment projects were approved in late 1998. These two projects form Stage 1 (pre-option development) of the impact assessment and will provide relevant information for managing changes associated with the SEQ RFA.

The project SE5.1.2 Literature Review of the Impact of Changes in Forest Use on Indigenous Communities will provide information on the key variables associated with social impacts arising from the SEQ RFA.

The project aims to review and examine:

- (i) social impact assessments and post impact studies and literature relating to changes in resource use and management with a particular focus on Indigenous communities and forest use
- (ii) how the social impacts were managed and addressed
- (iii) the key variables (in a south east Queensland context) associated with the nature and level of potential social impacts for Indigenous communities with a view to identifying the potential range of social impacts associated with the SEQ RFA.

The second project SE 5.2.2 Indigenous Communities Issues and Social Profile Case Studies will identify and analyse potential social and economic issues and impacts. The objectives of the project are:

- (i) to develop a broad community socio-demographic profile
- (ii) to integrate the variables associated with the nature and level of potential social impacts for Indigenous communities arising from changes in the use and management of SEQ forests
- (iii) to identify issues of concern and interest of up to six Indigenous communities that have association with forests in the south east Queensland RFA region.

The analysis in the project report SE 5.1.2, combined with the work of project SE5.2.2 will form Stage 1 of the Indigenous issues research work and can then be used to undertake a social impact assessment, (in accordance with Attachment 1h of the SEQ RFA Scoping Agreement), of forest use options including:

- (i) the examination of the potential social impacts for Indigenous communities arising from changes in the use and management of SEQ forested areas
- (ii) the development of impact management strategies.

The assessment of the social impact of tenure changes, management strategies and the negotiation of the Cultural Heritage Management Guidelines with relevant agencies through the SEQ RFA processes provide a starting point for the development of mechanisms to resolve the plethora of Indigenous issues, such as Indigenous Land Use Agreements (ILUAs). Further work is required in refining an agreed structure and process for the development of ILUAs as a successful and practical outcome of the SEQ RFA.

## 7.5 CULTURAL HERITAGE

The SEQ CRA includes projects which address Indigenous cultural heritage issues, thus ensuring that both Governments fulfil their agreed RFA requirements (SEQ RFA Scoping Agreement Attachment 1g).

Two cultural heritage projects have been undertaken. These are:

- EH 6.2.1 Indigenous Cultural Heritage Data Audit
- EH 6.1.2 South East Queensland Indigenous Cultural Heritage Management Guidelines.

The projects aim to :

1. Undertake research of existing cultural heritage documents, including the Queensland Department of Environment Cultural Heritage Register of Sites regarding places of significance in the SEQ region
2. Develop and importantly negotiate with relevant Government agencies a set of Cultural Heritage management guidelines and principles.

It is envisaged that these guidelines strongly recommend that cultural heritage management becomes an operational issue for future forest management. The guidelines also recommend the resourcing of Aboriginal people to undertake appropriate cultural heritage identification and management. The guidelines include comprehensive cultural heritage surveys prior to logging activities or as part of management requirements for protected areas such as those managed under the Nature Conservation Act 1992.

The guidelines and principles attempt to provide a cultural heritage protection framework across the SEQ RFA region and are designed to be refined on a local level by Aboriginal people who have an interest in cultural heritage within the SEQ RFA.

Numerous legal regimes for the protection of cultural heritage exist within Queensland. Regimes are in place which separately regulate dealings with cultural heritage, namely:

- the Forestry Act 1959 (Qld) within State forests and timber reserves
- the Nature Conservation Act 1992 (Qld) within protected areas including national parks
- the Cultural Record (Landscapes Queensland and Queensland Estate) Act 1987 (Qld) for Indigenous cultural heritage
- the Queensland Heritage Act 1992 (Qld) in respect of all Queensland cultural heritage other than Indigenous cultural heritage.

Attached as Appendix 1 is a review of these laws. Cultural heritage legislation is currently under review in Queensland.

## 7.6 NATIVE TITLE

Many Native Title issues are associated with the SEQ RFA, including:

- ownership of forestry products and resource sharing
- determining extent of Native Title within the SEQ RFA area
- tenure and land management changes which may adversely affect or impact on Native Title rights
- compensating lawful effects upon Native Title
- intellectual and cultural property rights.

The Queensland RFA Steering Committee has stated in correspondence with the NTRBs that the RFA process is not considered the appropriate forum to resolve Native Title issues. This view is based on the opinion that Native Title rights and interests are not affected by an RFA, in the sense that the term ‘affect’ is used in the Commonwealth Native Title Act 1993 (NTA). Where a particular Act does affect Native Title, the NTA confers procedural rights upon Native Title holders<sup>2</sup>.

It is not within the direct scope of the SEQ RFA to determine the location and extent of Native Title. The process for resolving Native Title issues in that sense is established by the NTA. The NTA process involves mediation in the National Native Title Tribunal and, if no agreement is reached, determination in the Federal Court.

However, Native Title rights are existing rights that must be observed and respected. If a particular policy process fails to consider the potential existence of Native Title, particularly in areas where there are good prospects of Native Title surviving<sup>3</sup>, the validity of that policy process will be affected. As a consequence, NTRBs believe that the failure of the RFA process to consider the possible existence of Native Title undermines its quality and validity.

The RFA process is an agreement between State and Commonwealth Governments involving the allocation of forests between conservation, industry and other uses. The development of the RFA for South East Queensland is underpinned by tenure and property rights that arise from a grant from the Crown. While it is certainly within the scope of the RFA that forest reserve areas may be created over private land, it is clear from RFA documentation that public land tenures are significantly more likely for inclusion in a comprehensive, adequate and representative reserve system. This sensitivity to private land interests may therefore involve less favourable treatment for Indigenous property rights (ie. Native Title) that survive on land ostensibly controlled by Government. Importantly, the Anti-Discrimination Act 1991 (Qld) prohibits discrimination in the area of the administration of State laws and programs<sup>4</sup>. Certainly it has been argued that the basis of the first Mabo decision in the High Court, which invalidated Queensland legislation, was less favourable treatment for Native Title rights.

Legal precedents argue that the SEQ RFA process cannot simply ignore Native Title issues but must treat them not less favourably than other private interests in land<sup>5</sup>.

## 7.7 INDIGENOUS LAND USE AGREEMENTS

One of the purposes of the SEQ RFA is to establish a comprehensive, adequate and representative (CAR) reserve system. Any changes in tenure as a result of the SEQ RFA will potentially impact on the legal rights of Aboriginal people. Aboriginal people, particularly traditional owners, will need to be involved in any negotiations regarding any potential changes in tenure.

Land management is a critical aspect of Aboriginal customary and legal rights to land. The rights to live, to hunt and fish, to protect areas of cultural significance and strategies to achieve self determination are examples of Aboriginal interests in future planning for management of forested areas.

The failure to include Aboriginal people and their concerns before establishing new land management regimes has been highlighted by the ongoing legal and management disputes in the Wet Tropics World Heritage Areas.

The smaller Eden Management Area RFA, on the other hand, is seeking a negotiated outcome with Aboriginal people. It considers issues such as Aboriginal heritage and Aboriginal tenure and management arrangements, including areas proposed for Aboriginal ownership<sup>6</sup>.

The Eden Management Area Heads of Agreement, negotiated as part of the (as yet incomplete) RFA process for the area, includes identification of:

- 1 Areas requiring comprehensive heritage assessment. All areas within the Eden CRA region are of significance to Aboriginal peoples and require full heritage assessment prior to the commencement of any development, conducted in co-operation with and at the direction of the relevant Aboriginal communities.
- 2 Areas proposed for Aboriginal ownership without condition (ie. Freehold title). Some small areas of cultural and socio-economic significance (and not affecting timber harvesting or significantly affecting conservation outcomes) are identified for transfer to the ownership of relevant local Aboriginal Land Council .
- 3 Areas proposed for Aboriginal ownership with conditions (such as ownership with lease back to the Crown).
- 4 Areas proposed for joint management by Aboriginal peoples and the Crown. These are areas proposed to remain in government tenure with Aboriginal input into their management<sup>8</sup>.

Regional Agreements, both within and outside of the NTA, have been developed across Australia to progress Indigenous land use and management aspirations to short circuit the often litigious and laborious NTA processes. The development of Regional Agreements under S 24(B-E) of the NTA provides scope for a negotiated settlement of Indigenous issues within the SEQ RFA processes.

The Queensland Indigenous Working Group (QIWG) has recently released a paper outlining principles for Indigenous Land Use Agreements (ILUAs). Under the 1998 amendments to the Native Title Act 1993 (Cth) provides for Land Use Agreements. The QIWG supports the concept that ILUAs can provide the mechanisms to achieve mutually satisfactory outcomes for Native Title holders and others with interests in land, sea and resources<sup>9</sup>.

The main principles of the QIWG document are:

- recognition, protection and maintenance of the custodial relationship between Indigenous people and the land and sea
- enhancement of indigenous participation in all aspects of the economy through sustainable development that incorporates Indigenous people at all levels of decision-making
- recognition and protection of Indigenous cultural heritage and recognition of Indigenous ownership of intellectual property in culture and heritage
- protection of flora, fauna and traditional practices through the development of renewable resource management and implementation strategies
- Governments' role in promoting and resourcing binding negotiated agreements such as ILUAs
- the development of simple but effective non-adversarial dispute resolution processes
- measures to ensure Indigenous involvement in the implementation of ILAUs and in their periodic evaluation and monitoring.

Support for a process to establish an Indigenous Land Use Agreement as an outcome of the SEQ RFA should benefit all parties. It would participation by Aboriginal people who would then not have to seek stressful and costly legal avenues in order to have their interests recognised and appropriately addressed. It could give certainty to the timber industry, help facilitate the establishment and ongoing management of protected areas, plus provide a framework for the ongoing reporting against sustainable forest management Indigenous indicators<sup>10</sup>.

The potential use of an Indigenous Land Use Agreement framework would facilitate co-ordinated resolution of issues. Such an approach enables the linkages between issues such as Native Title,

cultural heritage and social issues to be recognised rather than the current process of *ad hoc* projects in different, arbitrary streams of the RFA.

The support for developing an Indigenous Land Use Agreement framework would be a positive way to incorporate Aboriginal concerns and to negotiate resolution about Aboriginal interests in future forestry management regimes. Existing projects could be viewed as a starting point and be included such a framework.

## 7.8 CONCLUSIONS

As shown in the socio-demographic data above, Indigenous people in Queensland are socially and economically disadvantaged in comparison to the Queensland population as a whole and Indigenous people in the SEQ RFA region are more disadvantaged against selected criteria (income, unemployment, participation in CDEP) than Indigenous people in other areas of Queensland. Therefore many of the Indigenous communities in the SEQ RFA region especially sensitive to the impacts of changes in forest use and management as their narrow economic bases (highlighted in the comparative employment figures) make Indigenous communities in forest areas far less resilient to change than many non-Indigenous communities in the SEQ RFA region.

The SEQ RFA process provides a unique opportunity for Indigenous communities to have a say in tenure and management decisions about the future of forests in the SEQ RFA region. It also poses dangers for Indigenous people in terms of potential adverse effects on Native Title rights, protection of cultural heritage and the further narrowing of already fragile socio-economic bases of Indigenous communities. These issues have been dealt with to a greater or lesser extent by other RFA processes around the country through various non-binding mechanisms such as the Heads of Agreement approach between stakeholders in the Eden RFA process. However, Indigenous people need certainty and legally binding agreements in their dealings with governments, industry and community groups to ensure a solid base from which to strengthen their disadvantaged social and economic position.

Negotiations between the Queensland Government and the Queensland Indigenous Working Group on the status and scope of Indigenous Land Use Agreements is a mechanism to provide the certainty needed by Indigenous communities. The SEQ Regional Forest Agreement should recognise the legal rights of the Indigenous people in the region without them having to resort to stressful, costly and time-consuming legal avenues in order to have their interests recognised and appropriately addressed. This can best be done through legally binding mechanisms such as Indigenous Land Use Agreements.

### NOTES

(1) *Submission for Aboriginal Involvement in the SEQ RFA*, FAIRA Aboriginal Corporation, Goolburri Land Council, Gurang Land Council, September 1997.

(2) An act affects Native Title if it extinguishes Native Title or is patially or wholly inconsistent with Native Title rights and interests: *Native Title Act 1993 (C'th)* s.227.

(3) The survival of Native Title is complex but it is clear that Native Title is not entirely extinguished by land dealings such as National Parks, state forests, timber reserves and pastoral leases.

(4) See *Anti Discrimination Act 1991 (Qld)* Part 4 Division 10.

(5) It should be noted that the *Native Title Act 1993 (Cth)* as ammended authorises the use of a valid reserve, such as a timber reserve, for the purpose for which it was reserved (*Native Title Act 1993 (Cth)* s. 24JA). To the extent authorised by the *Native Title Act 1993 (Cth)*, the RFA process may treat Indigenous property rights less favorably than other private rights.

(6) RACAC News May 1998 p.2.

(7) Note: Under the Queensland legislation qwnership of land is held by Aboriginal people not Land Councils

(8) RACAC News, op. cit.

(9) QIWG *Indigenous Land Use Agreements - QIWG Principles*, October 1998.

(10) *A Framework of Regional (Sub-National) Level Criteria and Indicators of Sustainable Forest Management in Australia*, MIG Secretariat, Dept Primary Industries and Energy, August 1998, criteria 6 and 7.