

SOCIAL COMPACT HEADS OF AGREEMENT



BETWEEN

NORTH QUEENSLAND LAND COUNCIL
NATIVE TITLE REPRESENTATIVE BODY
ABORIGINAL CORPORATION

ABN 19 047 713 117

of 61 Anderson St, Cairns, 4870

AND

SIGNATORY UNIONS



OCTOBER 2010

Keeping Culture Strong

FOREWORD

This Compact records a collaborative framework between the NQLC and the signatory unions, to provide Indigenous communities with support in their negotiations with other parties about land use and development issues. The Parties to this Compact intend to invite other unions to join in the terms and the spirit of this Compact.

Within the framework of this Compact, and necessarily subject always to the consent of the Aboriginal Traditional Owners concerned, the parties will approach new industrial development negotiations in cooperation with each other and will do their best to ensure that all issues including industrial and safety issues are adequately addressed.

The parties to this Compact recognise that the quality of life of communities depends on the social, cultural and economic well-being of the communities. Economic welfare depends on a thriving economy. Industrial development should support, encourage and include our local economies.

As we enter into negotiations with the proponents of industrial development we must have access to all relevant information regarding development proposals so that our communities can make informed decisions including giving their informed consent to such proposals. Proper access to relevant information allows Indigenous communities to understand the likely social, cultural and heritage impacts and implications of development proposals on their land and waters.

The parties to this compact recognise the necessity of reviewing the compact and the work undertaken in association with the compact. In understanding the importance of such reviews the parties commit to conducting reviews quarterly or as required from time to time. The parties agree that senior decision makers of their respective organisations should be in attendance at the reviews to ensure that decisions and resolutions of any matters that may arise are dealt with in a timely manner.

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RECITALS

- A. The North Queensland Land Council ("NQLC") is a native title representative body determined by the Commonwealth Minister under the Native Title Act 1993. NQLC is governed by elected representatives from 12 wards covering an area from the Daintree River in the North to Koumala in the South and west to a point between Croydon and Normanton and south to the west of Richmond and back into the eastern seaboard just south of Koumala (see Appendix 3 for map of the NQLC).
- B. The signatory unions are organisations that are registered and represent workers that come under their constitutional coverage. Unions that are signatory to this compact operate with autonomy that is recognised by other signatory unions. However, it is not unusual for unions to cooperate on multiple levels that may be local, state, national or international. This compact is an example of such cooperation.
- C. The NQLC is committed to promotion and recognition of the native title rights and interests of the Aboriginal people in its area of responsibility. NQLC also supports the right of all workers to have the benefit of union representation across industrial awards, and in the negotiation and protection of conditions of employment, including opportunities for training, scholarships, superannuation and permanency of employment.
- D. In this Compact the Parties affirm their commitment to certain principles and agree to work in cooperation to achieve better outcomes for their members and constituents, consistent, in particular, with COAG policies on Closing the Gap on Indigenous Disadvantage.
- E. This MOU is not legally binding and nothing in this MOU effects or alters the statutory responsibilities and powers of either party under relevant legislation.

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THE PARTIES AGREE IN PRINCIPLE AS FOLLOWS:

1. The Parties affirm their support for and commitment to the goals and principles of equality and non-discrimination enshrined in the Universal Declaration of Human Rights. The unions are opposed to racism, xenophobia and all forms of discrimination, which constitute serious violations of human rights and a denial of the fact that all human beings are born free and equal in dignity and rights.
2. In fighting the racism and discrimination affecting millions of workers in a range of areas, including work, housing, education and training, the Parties will focus on the promotion of human rights, equality, diversity, solidarity, social justice and social cohesion.
3. In our day-to-day action, the Parties are committed to fighting to bring an end to discrimination in all its forms, so that the millions of men and women who are deprived of jobs, confined to certain occupations, denied promotion opportunities at work or are poorly paid, harassed and intimidated, on grounds of their gender, religion, colour, nationality, ethnicity, sexual orientation, gender identity, political opinion, social background, age or disability, can live and work in conditions of equality, dignity and justice.
4. The Trade Union movement regards this as a just struggle and a strategic way of countering competition between different groups of workers and combating the exploitation at work of the most vulnerable groups.
5. The Parties to this Compact also affirm their commitment to and support for the Principles and Priorities that follow. *The parties that are signatory to this compact have joined forces to achieve outcomes that mutually benefit their respective constituents and agree to work together to successfully achieve a set of common goals, by working, in their dealings with third parties, to the principles set out in this compact.*

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THE PRINCIPLES

- Respect and Recognition
- Rights and Responsibilities
- Community Engagement, Negotiation and Consent
- Economic, Social and Cultural Development
- Resource Management and Heritage Protection

1. Respect and Recognition

Respect and Recognition of the distinct nature of each other's historical heritage and values. In particular, the Parties agree to:

- treat each other fairly and with respect;
- ensure each party represents itself with the best intentions to achieve the common goal of social and community good;
- behave ethically and act with honesty, due care and diligence in our dealings with each other; and
- be open and accountable.

2. Rights and Responsibilities

1. Rights including Indigenous rights and industrial rights as defined in the UN Conventions and domestic legislation. The rights and responsibilities of Aboriginal people and Torres Strait Islanders as traditional owners and custodians of Australia and its territories are acknowledged by the Parties to this Compact as well as the essential connection between culture, language, heritage, land, sea and customary law in Aboriginal and Torres Strait Islander society. The Parties recognise that Indigenous authority and self-determination must be respected and are essential to the advancement of Indigenous people.
2. Indigenous peoples continue to suffer the loss of their land and resources, the destruction of their cultures, the pollution of their living spaces and acts of violence, all of which constitute threats to the very survival of these peoples. Discrimination is also manifested in the form of discriminatory acts such as the forced removal of peoples to make way for the construction of dams, mining operations, gas or oil exploration, deforestation, etc. The Parties are committed to resisting such loss and discrimination.

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3. Indigenous peoples are often faced with practices, organised deliberately by public authorities or corporate interests, aimed at keeping Indigenous people in a position of sub-ordination and treating them in a blatantly discriminatory manner. Such practices can be observed in the processes for acquisition of land for purposes of exploitation and profit and include violence and genocide, incitement to racial hatred, insults and threats, as well as racist conduct, attitudes or remarks. These practices have numerous ill effects on the health and wellbeing of Indigenous peoples. This multidimensional pollution constitutes a serious threat to the natural balance and the biodiversity of the areas where they live.
4. These practices constitute a serious attack on the fundamental rights of the Indigenous peoples by denying their right to a healthy environment and sustainable development and, secondly, by depriving them of their ancestral land, it destroys the foundation of their spiritual, material, cultural and socio-economic existence. Such discrimination can result in the extinction of these peoples, not only as a human community, but also as an essential link in the conservation of cultural and genetic diversity.
5. The Parties will work together to establish mechanisms to assist the victims of racial and other forms of discrimination in the workplace and to urge employers to adopt genuine equal opportunity policies, with a view to eradicating all forms of discrimination in workplaces. Adopting such policies is not only a question of decency, but also makes economic sense: Racism at work affects workers' confidence and morale and, as a foreseeable consequence, productivity.
6. The Parties support trade union organisations in their efforts to implement policies and actions for fighting racism, xenophobia and all forms of discrimination.
7. The Parties will promote respect for the international conventions that are devoted to the universal right to respect and tolerance and are based on the core human rights conventions. Ratifying and applying the international conventions, especially those of the UN and the ILO, must be core objectives. Those conventions are:
 - Convention on the Elimination of all forms of Racial Discrimination (1963);
 - Convention 111 on the Prohibition of Discrimination in Employment (1958);
 - Convention 100 on Equal Remuneration (1965);
 - Convention 169 on Indigenous and Tribal peoples (1989);
 - The Declaration on the Rights of Indigenous Peoples; and
 - The ILO Declaration on Fundamental Principles and Rights at Work and its Follow-up (1998).

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8. The Parties acknowledge that at the current time millions of people are jobless, subject to poor or unacceptable working conditions and/or subjected to intimidation or harassment on account of their gender, religion, colour, and nationality, ethnic origin, sexual orientation, political opinions, social origin, age or disability.
9. The Parties are committed to promoting respect for diversity in the workplace and in society. The Parties are committed to implementing effective measures to combat racism and xenophobia, in particular in the workplace and in the labour market.
10. The Parties also recognise the right of all people to:
 - organise;
 - bargain collectively for union agreements;
 - access union representatives via Right of Entry Provisions; and
 - work free from the threat of violence and harassment.

3. Community Engagement, Negotiation and Consent

The Parties acknowledge the importance of ensuring the free, prior and informed consent of Indigenous peoples to developments that may affect them or their interests and the need for benefit-sharing resulting from the use of their resources. The Parties are committed to promoting Indigenous self-determination and control in economic, social and cultural development.

4. Economic, Social and Cultural Development

The Parties confirm and support the following statement of the Council of Australian Governments (COAG) policy on Closing the Gap:

“Addressing Indigenous disadvantage is a national responsibility that will require the energy and commitment of all Australians. Working with all parts of the Australian community, the Government is determined to drive real improvements, focused on outcomes and guided by evidence. Central to the Government’s strategy is a new partnership with Indigenous Australians, based on mutual respect, mutual resolve and mutual responsibility.”

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Too many Indigenous Australians experience unacceptable levels of disadvantage in living standards, life-expectancy, education, health and employment. Rates of chronic disease, mental illness and hospitalisation are significantly higher for the Indigenous population than the non Indigenous population. Literacy and numeracy results for Indigenous students are consistently below the national average, especially in remote areas. The gulf that exists between Indigenous and non-Indigenous Australians in these critical areas remains significant and, in some areas, is widening as the rate of improvement has been greater for other Australians than for Aboriginal and Torres Strait Islander peoples over recent years.

The Australian Government is committed to working in partnership with Indigenous Australians, with state and territory governments, with business, community organisations and all Australians so that Indigenous Australians have access to opportunities that allow for self-respect, independence and better living standards – an education, a job, and a decent home – while still retaining a strong cultural identity and sense of community. It is unacceptable that Australia, a successful, developed nation with a modern economy, should tolerate fundamental inequality between its Indigenous and non-Indigenous people.”

Having regard to the adopted policy of COAG quoted in the preceding paragraphs, and given that Industry is included in the recitals of COAG as having an important part to play in addressing Indigenous disadvantage, this Compact should provide the Parties with a platform for their engagement in the implementation of a number of strategies that are intended to facilitate Closing the Gap. The Parties reaffirm their conviction that the fight against racism and prejudice is necessarily linked to wider social and women’s struggles. The Parties therefore acknowledge the need to adopt a holistic approach to tackling racism and prejudice wherever it may occur.

5. Resource Management and Heritage Protection

The Parties acknowledge the importance of cultural heritage to Indigenous peoples. The Parties are committed to promoting the protection of Indigenous cultural heritage for current and future generations.

The Parties are committed to promoting responsible resource management and cultural heritage protection in the interest of ensuring that a sustainable future is achieved for all generations through thoughtful and well-managed development.

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PRIORITIES

The parties that are signatories to this compact agree to cooperate and negotiate around the following priorities when negotiating with third parties.

- Workforce Planning
- Education
- Economic Development
- Social development
- Cultural Promotion and Protection
- Environmental Management and Protection
- Communication

Please Note: Additional priorities and principles that bind the signatory unions are set out in Appendix 1 of this compact.

1. Workforce Planning

1. The Parties are committed to the development of a professional skilled Indigenous workforce, achieved through appropriate and effective measures.
2. The engagement of local communities in the workforce will encompass strategies targeting those who are school-leavers, entry-level workers and mature entry workers and arrangements for those transitioning positions within the workforce. The scope of workforce planning encompasses job readiness training, mentoring, recruitment, professional development, retention and succession planning. The involvement of Indigenous people in all aspects of the workforce – technical, administrative, managerial and support services – is a priority.

2. Education

The Parties acknowledge that a sound education is the foundation of opportunity for all people. The Parties are committed to promoting strategies that ensure access to educational opportunities for all Indigenous people as a condition of their employment.

3. Economic Development

The Parties acknowledge that economic development in communities enhances social well being. The Parties are committed to promoting Indigenous preferred-supplier practices, development of financial literacy for the workforce, including workshops, credit union access, salary packaging, tax arrangements and superannuation packages, as well as wage parity consistent with industrial guidelines. Microenterprise development and loan programs should also be in place to assist Indigenous people in establishing economic ventures.

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4. Social Development

1. The Parties acknowledge that social development can create strong and resilient communities. The Parties are committed to promoting flexible working arrangements, family-friendly workplaces, leave arrangements for 'sorry business', as well as health programs in the workplace and access to health clinics. Nutrition programs should be run to increase well-being and arrangements put in place to enable people to access foods whose costs are prohibitive in local stores.
2. The Parties are also committed to promoting corporate social responsibility, including sponsoring community projects that are identified by community organisations.

5. Cultural Promotion and Protection

The Parties acknowledge the importance of culture in sustaining community life. This includes supporting a strong community identity and sense of belonging through support for activities within the community and active promotion for participation by the workforce.

6. Environment Management and Protection

The Parties acknowledge the critical importance of the environment to the community. The Parties are committed to promoting best practice in environmental management and protection wherever new development occurs.

7. Communication

The Parties are committed to the development of appropriate communications strategies, including the development of appropriate and applicable material targeted towards Indigenous and non-Indigenous peoples. This also includes protocols for how material is communicated, local negotiation processes and dispute resolution processes.

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EXECUTION

Executed by the Parties this _____ day of _____ 2010.

NORTH QUEENSLAND LAND COUNCIL

Chair

In the presence of:

Witness

Witness name (print)

MUA

State Secretary

In the presence of:

Witness

Witness name (print)

Keeping Culture Strong

MUA

National Secretary

In the presence of:

Witness

Witness name (print)

ETU

State Secretary

In the presence of:

Witness

Witness name (print)

AMWU

State Secretary

In the presence of:

Witness

Witness name (print)

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CFMEU (Mining & Energy Division)

State Secretary

In the presence of:

Witness

Witness name (print)

Appendix 1

Queensland Union Movement Solidarity and Co-Operation Agreement

This Agreement forms the basis of a strategic bond between the signatory Unions of Queensland and enshrines our commitment to building solidarity and unity across the Queensland Union movement.

We the signatory Unions agree that:

1. We will, wherever possible, support each other during industrial campaigns to promote better outcomes for Queensland workers and their families.
2. We will publicly defend each other if subjected to attacks by the media as a result of legitimate industrial or political activity.
3. We will develop and implement political, industrial and media campaigns that promote the Union movement of Queensland and the rights of Queensland workers and their families to pursue better wages, conditions and social benefits. We also agree to defend the rights of construction workers and any other worker that may be targeted by the government's ABCC or any organisation that attacks the rights of Australian workers and their families.
4. We will strive to implement and build high levels of occupational health and safety, rehabilitation and compensation laws, through the continued lobbying of government at both the state and federal level.
5. We recognise the importance of protecting and promoting delegate and occupational health and safety representative structures in the workplace and we will endeavour to work collaboratively to ensure our respective members have adequate representation in their workplaces.
6. We agree to act as a common bargaining unit in areas of overlapping coverage.
7. We agree that officials from any of the signatory Unions to this Agreement may, by consent, represent any other Union who is signatory to the Agreement.
8. We agree to develop and implement a program of joint meetings between officials, delegates and health and safety representatives of the signatory Unions.
9. We will actively encourage all employees to join the Union with traditional and jurisdictional coverage over their classification and who are party to the industrial instrument determining the wages and conditions in their workplace. Furthermore we agree that when an employee moves from one Union's area of coverage to another Union's area of coverage that they are allowed to suspend their membership with one Union and take up membership of another Union that has the jurisdictional coverage and is party to the industrial instrument that covers the employee's employment at that workplace.
10. We agree to actively seek the support and participation of likeminded Unions in this agreement.

Appendix 2

Community Development Checklist

A) *Getting an agreement*

1. Develop a negotiating strategy. Once the basic organization is in place, it is time to concentrate on how the community and its Economic Development Officers will approach the negotiations. Some useful advice includes the following:
 - a) Ensure that the necessary “homework” is done prior to commencing negotiations. A community’s interests will need to be bolstered with the necessary background facts. For example, if increased employment in a new plant outside the community is the objective, then it is essential to have an inventory of members currently unemployed with their skill and experience levels listed and likely training needs known. Further, it may be important to have documented previous attempts to achieve higher employment levels among community members so that any mistakes will not be repeated.
 - b) Try to anticipate the interests of the other party. What is it looking for out of the negotiations? How do the community’s interests coincide with its own?
 - c) Determine what would be the best solution if a negotiated agreement is not possible. Is this solution something that the community can live with?
 - d) On the basis of the above analysis, determine how the community’s interests can best be pursued in these negotiations.
 - e) Develop a communication’s strategy so that the community is aware of the negotiations and how it will stay abreast of new developments.
2. Determine the contents of a negotiated agreement. Despite the fact that every agreement will have its own unique features, there are some items that should be part of any agreement. Good practices here include:
 - a) Ensure that the agreement contains a section on dispute resolution, outlining the type of dispute with the appropriate dispute resolution vehicle (See, for example, *Dispute Resolution Mechanisms: Examples from Other Jurisdictions* by the Institute on Governance).
 - b) Build into the agreement the consequences on non-compliance by either party.
 - c) For agreements where market volatility may play an important role, develop ways for handling this volatility - among other things this may mean defining benefits according to a sliding scale or having to re-negotiate certain clauses of the agreement.
 - d) Put into the agreement some means of measuring progress such as the utilization of performance indicators; further, ensure that there is some common approach to evaluating the agreement at certain key points.

- e) Build into the agreement what happens on or just before the expiry date.
3. Monitor the agreement. Once the agreement is in place, it is important to establish monitoring procedures and reporting mechanisms.

B) *Understanding potential economic opportunities originating outside the community*

Potential employment opportunities can arise because:

1. People are always moving in and out of jobs. However, an ageing work force in some industries may create significant openings for new employees within a short period. Australia's baby boom generation will soon retire. This will not only create vacancies in a number of industries, but also create the demand for new services to address the needs of a growing population in retirement.
2. A major new development has been announced or is being considered near the community. The development could be a quarry plant, a mine, a transmission line, or construction of major infrastructure.
3. Industry seeks to manage costs and is increasingly recognizing that it costs more to hire non-Aboriginal potential employees to move to remote job sites, or to stay at remote sites in the long term, than it costs to hire Aboriginal employees who live nearby and will likely remain in their jobs for some time.
4. Industries are required to consider Aboriginal employees in EEOs and Closing the Gap policies of the COAG.
5. Industries are required to hire new employees with particular skills in response to changes in public policy or new technologies.
6. A new business starts or expands and requires employees.
7. Governments are seeking Aboriginal employees either to address policy or legal commitments.
8. Governments are seeking Aboriginal employees to provide essential services to Aboriginal communities.
9. Changing industry conditions through technological change create opportunities for new businesses or differently trained work forces for existing businesses.

Remember, experts have stressed the importance of predicting the future job market rather than concentrating solely on the current job market. This makes sense given the lag times often required to train individuals to meet job requirements.

C) Knowing the community's strengths and weaknesses

The following questions may assist in assessing the community's strengths and weaknesses in terms of getting community members into available jobs:

1. How many community members are currently looking for work?
2. What kinds of work are they looking for, or prepared to undertake?
3. What are their education, skills, and work experiences?
4. Do they have job search skills?
5. Have employers, particularly major employers, expressed an interest in, or do they have policies supporting, Aboriginal recruitment?
6. What is the perception of community members as employees by potential employers?
7. Have community members found employment outside the community? Are they in a position to assist other community members?
8. Does the community have access to training opportunities for its members?

D) Managing the environment

Understanding federal environmental laws and regulations will allow communities to address any actions required of them in implementing their community economic development plans at an early stage. This will minimize risks of delays, unnecessary costs and possible cancellation of projects that have not met federal environmental laws.

E) Environmental assessment

Environmental assessment involves understanding the environmental implications of decisions when decisions are being made. With this understanding, it becomes possible to reduce or minimize negative environmental effects, often at relatively little cost.

The Federal Government has incorporated environmental assessment into its operations. The Act sets out procedures and processes those federal departments and agencies must follow when making decisions that may impact on the environment.

It is important for Indigenous Parties to be fully apprised of the level of environmental impact emanating from the collective actions or use of materials that are in conflict with the natural environment - i.e. chemicals used in extraction and stored in "slurry dams" then have the dam walls breached by flooding as seen recently with the environmental disaster at the Century Zinc Mine.

