

# *NATIVE TITLE RESOLUTION ACTU CONGRESS 1997*

- 1 The ACTU Congress declares its support for the High Court and the principles it established in the Mabo and Wik judgements. In the historic Mabo case the High Court recognised the occupation of Australia by Aboriginal and Torres Strait Islander People prior to European settlement, and the common law right of Indigenous Australians to native title.
- 2 Congress notes that, in dealing with the relationship between native title rights and pastoral leases in the Wik judgement, the High Court held that the rights of pastoralists to conduct pastoral activities were secure, and that any native title rights could only exist where they did not interfere with the pastoral activities.
- 3 Co-existence on this basis has been the reality on many pastoral leases for over 150 years, but without legal recognition of Indigenous rights.
- 4 Congress condemns the campaign against the High Court and the Wik judgement. This campaign has misrepresented the issues and damaged the process of reconciliation between Indigenous and non-Indigenous Australians.
- 5 Having regard to the tragic history of displacement and dispossession of Aboriginal and Torres Strait Islanders from their land, and the significance of the land in indigenous cultures, Congress recognises that respect for native title rights is essential to the reconciliation process.
- 6 The amendments to the Native Title Act which have been proposed by the Howard Government do not meet this test. The amendments have not been developed with the support of the Aboriginal and Torres Strait Islander community. The amendments would effectively extinguish the common law rights of many native title holders.
- 7 After more than 200 years of dispossession and demoralisation it is absolutely necessary for Australia as a nation to reject the voices of prejudice, ignorance and hatred. Respect for the rights of Indigenous Australians is an issue for all Australians.

- 8 The Mabo and Wik judgements reflect fundamental truths about the prior occupation of this country. They lay the basis for justice, not further injustice.
- 9 Congress therefore calls for a just and fair resolution of native title issues, a resolution which reconciles by agreement the interests of all stakeholders in a spirit of co-operation and mutual respect. Congress recognises and commends Indigenous representatives for their commitment to achieving such an outcome in the interests of all Australians.
- 10 Congress supports the call by indigenous representatives for a resolution of the issues based upon:
- 1] No extinguishment, either by direct means or de facto, of native title without the informed and explicit written consent of native title holders.
  - 2] Respect for the existing rights of pastoral lease holders, without improving those rights to the detriment of native title holders or the community.
  - 3] Local or regional agreements between the various stakeholders.
  - 4] The preservation of the right for native title holders to negotiate over resource development on land in which they also have an interest.
  - 5] No imposition of unreasonable procedures which would have the effect of preventing or hindering the recognition of native title rights.
- 11 ACTU Congress recognises that further negotiation needs to be undertaken to address the ongoing lack of rights of urban Indigenous people who have had their entitlements to land and compensation extinguished.
- 12 Congress endorses a continuing dialogue with Indigenous representatives concerning ways in which the union movement can support the achievement of these objectives. Specifically, unions will:
- 1] Inform delegates and members of the issues through union journals, union education courses and the distribution of material.
  - 2] Participate in the community campaigns co-ordinated by organisations such as Australians for Native Title and Reconciliation.
  - 3] Encourage members to sign the Australians Citizen's Statement supporting native title rights.

4] In conjunction with Indigenous representatives,  
actively support and contribute to lobbying and  
political campaigning.