

**The allocation and management of royalties
under the Aboriginal Land Rights (Northern
Territory) Act: options for reform**

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October 1999

Foreword

The Centre for Aboriginal Economic Policy Research (CAEPR) has maintained a long-standing interest in the institutional and economic workings of the *Aboriginal Land Rights (Northern Territory) Act 1976* and, both as Director of CAEPR and before, I have had a particular interest in its financial provisions and their impact on the position of Aboriginal people in the Northern Territory. Over the last two years, that involvement has intensified following the commissioning in October 1997 of Mr John Reeves QC, by the Minister for Aboriginal and Torres Strait Islander Affairs Senator John Herron, to conduct a wide-ranging review of the operations of the Act, the first such general review since 1983. CAEPR's involvement in those two years can be traced in three stages.

The first of these was participation in the Review process itself. In the first instance I responded to a call by Mr Reeves to various interested parties to suggest those matters that should be addressed in an Issues Paper intended to begin the Review process. My contribution, along with others, was later published in Appendix B of his Report. Also during the Review period, Mr David Pollack, a Visiting Fellow at CAEPR, and I prepared a report for the Review on the financial aspects of the Act. Following the release of the Reeves Report in August 1998, we published our report as *CAEPR Discussion Paper No. 168*, entitled 'Financial Aspects of Aboriginal Land Rights in the Northern Territory'. One of the reasons for publishing that Discussion Paper was the divergence between our recommendations for incremental changes to the financial operations of the Act, and the far reaching changes proposed by Reeves. We wished our material to be available to the public debate that we knew would follow Reeves' work.

What did follow was a major critical reaction in both the academic and political domains. This was the context for the second stage of CAEPR's involvement. The Centre joined with the Department of Archaeology and Anthropology in convening a two-day conference, 'Evaluating the Reeves Report: Cross-Disciplinary Perspectives' in Canberra in March 1999. The proceedings of that conference were published as CAEPR Research Monograph No. 14, *Land Rights at Risk? Evaluations of the Reeves Report*, to which CAEPR staff contributed five chapters covering the costs and benefits of land rights, financial provisions, local organisations, and regionalisation of land councils. These papers were subsequently made available to the House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA), which had been given a brief by the Minister to report on the recommendations of the Reeves Report.

Following this phase of critical reaction, the concern of interested parties turned quickly to the task of formulating an alternative set of reform proposals. This is the third, and continuing, stage of CAEPR's involvement. During this phase, CAEPR staff twice appeared at HORSCATSIA hearings prior to the publication of that Committee's Report, *Unlocking the Future*, in August 1999. In

addition the Northern Land Council (NLC), conscious of the need to move beyond critique and encourage constructive thinking about the next generation of land rights, in consultation with the Central Land Council and with the assistance of the Aboriginal and Torres Strait Islander Commission (ATSIC), contracted CAEPR to prepare options papers on a set of central issues. This Discussion Paper is one outcome of this research, along with another on the subject of regionalisation of land councils by Robert Levitus, David Martin and David Pollack.

This Discussion Paper is a combination of two papers separately prepared by the authors. I prepared an historical overview and critique of the existing financial framework of the Land Rights Act for a CAEPR seminar in June 1999, and re-presented that work to a HORSCATSIA hearing later that month. Also in June, Robert Levitus prepared an options paper dealing with the funding of land councils and their relationship with royalty associations, and presented it to a one-day workshop at The Australian National University attended by representatives from the NLC and ATSIC, CAEPR staff and other interested academics. The two papers were combined and the draft further circulated and discussed. It was submitted to HORSCATSIA during the final stages of its Inquiry, and after release of HORSCATSIA's own Report on 30 August, this final version was prepared.

HORSCATSIA's brief was confined to recommending changes to the Reeves proposals in the light of interested parties' responses to those proposals. While the Committee's Report very usefully returns the debate to the ground of moderate and constructive reform of a given statutory scheme, its brief foreclosed the possibility of ranging more widely across possible reform scenarios. As this Foreword is being written, the process is quickly moving into its next stage, the preparation of a submission for amendments to the Act for government consideration. It is to be hoped that, now that policy-makers again have the opportunity to cast more widely for useful ideas, this Discussion Paper will assist in constructively negotiating the possible passage of generational change in Northern Territory land rights law.

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Summary

In response to post-war mining developments on Northern Territory Aboriginal reserves, policy innovations established the principles that a special rate of royalties could be levied on those developments and applied to the benefit of Northern Territory Aborigines, and that a proportion of those royalties should be reserved for the people of the area where mining was taking place. The Woodward Land Rights Commission accepted these two principles and also created Aboriginal land councils as a third class of beneficiary. The Commission thus proposed the 40/30/30 formula to govern the distribution of mining royalty equivalents (MREs) among these Aboriginal interests.

From the inception of the Land Rights Act, the application of this formula has been beset by problems of logic, fairness and practicality. While changes to the financial provisions of the Act have been minor, only one element of this formula, the 30 per cent directed to areas affected by mining, has remained unchanged. Provision for supplementary funding of land councils has operated at the expense of general grants to Territory Aborigines. There is now, in the wake of the Reeves Review, an opportunity to re-think and amend the financial framework of the Land Rights Act. With respect to each class of beneficiary of MREs, this paper argues:

- Payments to land councils should be fixed at 50 per cent of MREs, in order to provide for an expansion of regionalisation and land management activities in the post-land claims era. That percentage should be calculated on a rolling average of the previous ten years of MREs received by the Aboriginals Benefit Reserve (ABR) in order to make land council income more stable and predictable, and preserve its political independence. Supplementary funding should be allowed only under exceptional circumstances.
- Ensuring accountability of royalty associations raises several issues that require critical review. The instrument of negotiated agreements should be more fully exploited to ensure both that associations' expenditures serve community purposes, and that those services do not substitute for government programs. Financial policies need re-thinking, especially with respect to individual cash distributions and long-term investments. Land councils need to justify any claim, as against other possible agencies, to exercise greater oversight of association affairs. At the same time, the terms and application of s.35(2)(b) require reform in order to provide royalty associations with a more secure niche in the land rights scheme.
- The level of grants to Territory Aborigines is too low to justify a separate administrative process and share of MREs. The accumulated capital fund of the ABR will soon be large enough to provide a substitute source of grants, if it is thought necessary to retain a limited pool of funds for general access.

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John Roberts and Katy Haire of the NLC provided detailed and thoughtful comments at various stages of our work. Greg Marks of ATSIC ably filled the role of discussant at the CAEPR seminar, and thanks are also due to the seminar participants who commented. Kingsley Palmer, Jennifer Clarke and Ernst Wilhelm raised significant points at the University House workshop. At CAEPR, Diane Smith and David Pollack responded helpfully and generously to various drafts, while David Martin and John Taylor joined in many discussions around these issues. Useful discussions, mostly on the public record, also took place with the members of HORSCATSIA. Editorial assistance was provided by Linda Roach and Hilary Bek, with layout by Jennifer Braid.

Introduction

The financial framework of the *Aboriginal Land Rights (Northern Territory) Act 1976* was originally proposed by Mr Justice Woodward in the Second Report of the Aboriginal Land Rights Commission (Woodward 1974). Woodward developed his ideas with an eye to maintaining some degree of continuity with the preceding 20 years of policy governing mining on Northern Territory Aboriginal reserves. Beginning with this history, the first section of this paper discusses that financial framework and its underlying principles and political effects. It shows the lack of sound economic principles or even logical accounting on which it is based, and the absence of clear and transparent policy messages to indigenous interests in the Northern Territory emerging from it.

It is now 25 years since Woodward's Second Report, and his framework has remained in place with only minor alterations. The sweeping recommendations of the Reeves Report (Reeves 1998), and the academic and policy responses to it (Altman, Morphy and Rowse 1999; House of Representatives Standing Committee on Aboriginal and Torres Strait Islander Affairs (HORSCATSIA) 1999), presently dominate the land rights debate. Reeves' (1998) approach to financial matters amounts to a replacement of the existing framework with a different one (see Chapter 16 of the Report). That replacement model, and the critique that it evoked (Altman 1999; Levitus 1999), will not be rehearsed here.

In the wake of the Reeves Report and the surge of critical responses to it, a number of analysts and commentators have turned their attention to doing what many argued Reeves himself should have done. While endorsing in broad terms the continuing relevance and value of the existing Act, they seek ways of overcoming particular demonstrated weaknesses and enhancing its usefulness for governing land rights in the next generation. That indeed is the approach settled upon by the HORSCATSIA (1999) in its recent inquiry into the Reeves Report.

The remaining sections of this paper are intended as part of that effort. They thus take the existing financial system as their starting point, discuss a number of problems in its operation, and offer some proposals for improvement. These concentrate on the funding of land councils and the establishment and operation of royalty associations, being the two principal classes of recipient of moneys under the Act. In keeping with the preference for ameliorating, rather than fundamental reform of the Act, there is of course a presumption here, contra Reeves, that the land councils and royalty associations will continue to exist. A concluding section deals with the residual money presently disbursed through the Aboriginals Benefit Reserve (ABR) grants scheme.

The financial framework of the Land Rights Act: history, review and critique

It is not the intention here to give a full account of the historical antecedents of the current land rights financial package, but by way of precis, three events should be noted. (For a detailed account of the pre-land rights period see Altman 1983: 3–37.) In 1953 the Minister for Territories, Paul Hasluck, introduced a mining royalty for projects on Northern Territory Aboriginal reserves that was to be levied at double the rate for projects on non-reserve land. The full amount of royalties raised was to be directed to the needs of the Aboriginal population of the Northern Territory. In 1963, the bark petition sent by Yirrkala Aborigines to Federal Parliament caused a House of Representatives Select Committee to recommend direct compensation to the people of the area where a mining excision had been granted. In 1971, the Federal Government decided that a special allocation of 10 per cent of the royalties from the mining operation should be directed to the local Aboriginal people. This change arose from further developments in eastern Arnhem Land. In that year the Yirrkala people lost the Gove Land Rights Case, which had arisen specifically from the alienation of part of their land for a mining project. By that time the failure of the mining company to make any compensatory payments appeared unjust by comparison with arrangements on nearby Groote Eylandt, where the Church Missionary Society (CMS) had negotiated agreement moneys and an extra royalty payment to flow to local people from BHP's manganese project.

Two basic principles had therefore emerged by the early 1970s. The first was that royalties from mining operations on Aboriginal reserves in the Northern Territory should not be absorbed into the Commonwealth's general revenue, from which programs to assist Aboriginal people were funded, but should generate an additional flow of revenue specifically for the benefit of Northern Territory Aborigines. While well intentioned, this policy lacked any clear logic. Plainly, given the outcome of the Gove Case, royalty payments could not be paid in a manner that implied recognition of Aboriginal land ownership. But nor were they being paid as compensation for disturbance and disadvantage. Rather, the availability of royalties for the benefit of Territory Aborigines generally meant there was no necessary connection between the location and impacts of the mining project and the beneficiaries of programs funded from those moneys.

The second principle recognised this illogicality. Of the royalties raised from mining on Aboriginal reserves, the people locally impacted upon by a mine should receive some dedicated share. This share was thus initially set at 10 per cent. What had been an issue of policy logic then became an issue of fairness: what was a reasonable percentage to set aside for the compensation of local people?

The remainder of this section discusses Woodward's (1974) recommendations in his Second Report and the financial provisions of the *Aboriginal Land Rights (Northern Territory) Act 1976* together. To the two sets of beneficiaries recognised by previous policy—the people of the area being mined,

and Northern Territory Aborigines generally—was now added a third: the land councils created as a result of Woodward's First Report (Woodward 1973: 41–3). Each of these categories of payment presents its own policy difficulties.

Payments to areas affected

The people of the area being mined, referred to by Woodward (1974: 114) as the 'local community' and currently defined in the Land Rights Act as people who have incorporated themselves and 'live in, or are the traditional Aboriginal owners of, the area affected by those mining operations' (s.35(2)(b)), were allocated 30 per cent of mining royalty equivalents (MREs). This represented a substantial increase from the 10 per cent of earlier days. Further, the accompaniment of Aboriginal freehold land ownership by a power of veto over mining developments (arguably creating the same negotiating environment as if they had been allowed ownership of minerals), made available further benefits in the form of negotiated royalties and other negotiated payments known as agreement moneys. This capacity to negotiate further benefits also had an east Arnhem Land precedent in those negotiated by CMS on Groote Eylandt.

Within the new policy context of the Land Rights Act, neither the underlying logic nor the application of these payments is clear. While the Act fundamentally recognises traditional ownership of lands and establishes rights of consultation and informed consent flowing from that, statutory royalties were in the first instance directed to residents, and only by amendment in 1987 were traditional owners added to the prescribed class of recipients. If the payments are intended as compensation for local impacts, then royalty flows are not a proper source, because their value is determined by aspects of the mining operation and its marketing environment, not by the social ills they are aimed at redressing. If the payments are, rather, a sharing of mineral rent (see Garnaut 1982) then traditional owners, not residents, are the appropriate class of recipient. If the payments have the character of both compensation and rent, then shares and recipients should be differentiated accordingly. With respect to application, there is no definition given of an 'area affected' by a mining operation, nor are expenditure guidelines set down.

Funding of land councils

The land councils were allocated a total of 40 per cent of mineral payments in Woodward's (1974: 128) formulation, and that proportion was imported into the Act. Funding from this source was thought to offer some political independence from annual government budgetary processes, although land council budgets are themselves subject to Ministerial approval. Royalty funding also gave an impression that land councils were not a large burden on the public purse, coming from revenue foregone rather than as an extra impost.

The policy problems here are less ones of principle and logic and more of practice and politics. The 40 per cent share proposed by Woodward quickly

proved inadequate to the statutory functions of land councils and, since the second year of operation of the Aboriginals Benefit Trust Account (ABTA), has had to be supplemented by further distributions under s.64(7) (Altman 1983: 98–9). Like any bureaucratic organisations of this size, the land councils tend to be ‘sticky downwards’ in size and expense. This extra take opened them to resentment from their constituents who felt disadvantaged by lack of access to such a large proportion of MREs. Even for the land councils, their 40 per cent allocation represented a variable proportion of their needs, because mining royalties are an unstable income source (see further below), and moreover, the value of all MRE distributions was reduced by imposition at source of a mining withholding tax (MWT), initially at 6.4 per cent.

Payments to Northern Territory Aborigines

The third set of beneficiaries, the Aboriginal population of the Northern Territory, having initially received, under Hasluck, the benefit of all royalties, was under the Woodward formula reduced to direct access to only 30 per cent. The retention of this share was intended to prevent too wide a discrepancy between different sectors of that population: those with land ownership and a mine on the one hand, compared to those with no mine, or no land, on the other. While there was some policy logic in that, management of the moneys was unregulated. The form that the benefits were to take was never defined, but was dependent on recommendations to the Minister from an Aboriginal Advisory Committee. The beneficiaries, too, were unspecified, but no sector of the Territory’s Aboriginal population was excluded, so even those with access to ‘area affected’ moneys could apply. Finally, the ABTA (later the ABR) lacked any guiding policy on investment or expenditure, leaving it open to criticism for doing, or how it did, either of these things.

Overall framework

The absence of any necessary policy logic for this financial framework is underscored by the fiction of the label still given to it, the ‘40/30/30 formula’. Never have the royalty distributions supposedly governed by this formula accorded with these proportions, not in a single financial year since it began in 1978–79. This history and illogicality have made Aboriginal interests vulnerable on two broad fronts.

Non-Aboriginal scrutiny, from political interests and independent reviewers and in the form of public opinion, can generate critical comment on the management of resources. Land councils could be criticised for exceeding their 40 per cent share of MREs irrespective of performance. Similarly, royalty associations could be criticised either for failing to remedy negative social impacts (if they receive money as compensation), or for not delivering economic development and social improvements to traditional owners (if the money is rent). Finally, the ABR could be criticised for whatever direction it chooses in managing

its share, including for a granting policy (that has favoured the purchase of vehicles and pastoral stations) that accords too closely with Aboriginal priorities.

There is constant tension within the Aboriginal polity over division of the MRE cake. In 1979 provision for supplementary funding of land councils was introduced in a manner that allowed them to draw a higher proportion of MREs. Their need to attract budgets adequate to fund their statutory functions could thus be satisfied only by denying the ABTA, and therefore Northern Territory Aborigines generally, access to the full 30 per cent of MREs originally intended for them by Woodward. In addition, people in areas affected, generally represented by traditional owners, bemoan the direction of 70 per cent of 'their royalties' away from the local area, or else compare their mine to another more valuable mine, possibly with a lesser impact, or compare their royalty regime with a superior one.

Criticisms such as these, levelled from within and outside the Aboriginal domain, were drawn upon by Reeves to justify fundamental changes to the present land rights model. His alternative model, however, is unrealistic, costly, and invites determined resistance (see Altman, Morphy and Rowse 1999). The purpose of the remaining sections of this paper, by contrast, is to suggest means by which the existing arrangements can be made more logical and workable.

Land council funding

The source of land council funding

At present, under ss.64(1) and 64(7) of the Act, funding for the four Northern Territory land councils comes from a share of the MREs paid into the ABR by the Commonwealth Government from consolidated revenue. These funds are referred to as 'equivalents' because the amount paid into the ABR is intended to be equal to the amount of mining royalties generated on Aboriginal land in the Northern Territory and paid to either the Commonwealth (in the case of uranium) or Northern Territory (other minerals) Governments. Thus, although land council funds are drawn from general revenue, the amount they receive is determined by the value of mining royalties paid in. The issue here is whether they should continue to be funded from a share of MREs or should instead be included in general budgetary allocations from consolidated revenue in the same manner as other statutory authorities.

The dependence of land council funding on the annual flow of mining royalty equivalents has three principal problems:

- short-term fluctuations in commodity prices make for unpredictable budgetary instability;
- a perceived conflict of interest arises in consulting traditional owners over future mining developments which, as in the Jabiluka case, can compromise the land councils' public credibility; and

- the size of the income stream is determined by a criterion that is unrelated to the full range of land councils' functions; that is, it is only related to work that derives from mining agreements.

The only complete answer to these problems is to have the land councils funded by an untied appropriation from consolidated revenue. This is not a solution favoured by the land councils (HORSCATSIA 1999: 65). There is already a degree of political oversight of land council funding in that their budgets are subject to Ministerial approval, but this proposal would further subject the land councils to a complex of considerations that bear on the framing of Federal budgets, and to the Ministerial discretion that is exercised within that process. Nevertheless, that is one way to go.

The main point of this section, however, is to present an alternative proposal:

- draw land council funding from consolidated revenue according to a statutorily-guaranteed formula that calculates annual allocations as a rolling average of the preceding ten years of mining royalty income.

The ten-year period is proposed because the MRE income received by the ABR reached a new high in 1989/90 (Reeves 1998: 323) and has since often sustained that new level. This suggests that mining development on Aboriginal land has reached a certain level of maturity and the initial expansion phase, which would have seriously reduced average figures, is now well in the past. In calculating the average figure, some allowance would have to be made, possibly by consumer price index adjustments, for inflationary effects on the real value of royalty figures from previous years.

With respect to the problems listed above, this proposal:

- smooths out short-term fluctuations in commodity prices;
- diffuses, though does not eliminate, the conflict of interest; and
- has no effect on the relationship between funding and functions (see further on this below).

In addition, this proposal makes it possible for the land councils to predict the general trend of future funding and averages out the loss of income from mining projects coming to an end. It also preserves that political independence that is the major advantage of the current arrangements in that, while land council funding will be drawn from consolidated revenue (as at present), the amounts are still determined by the value of mining royalties paid in.

The significant disadvantage presented by this proposal is that land councils do not obtain the full immediate advantage from the successful negotiation of new developments. In the case of major projects, that may indeed be a considerable disadvantage during the first years of production. A shorter period for averaging, say five years would, of course, increase the pick-up rate of income from new developments, but would also increase the drop-off rate of

income after developments close and would have less of a smoothing effect on commodity price fluctuations. It is a matter of choosing the balance.

HORSCATSIA (1999: 73) accepts that land councils should continue to be funded from the ABR. Government members of the Committee, however, adopt a further position that is paradoxical. They favour calculating the amounts distributed to land councils by reference to their functions and responsibilities; that is, establishing the same 'strong association between budget allocations and activity levels' that applies to other Commonwealth agencies (HORSCATSIA 1999: 73–4). By removing the political independence of funding in this way, they would remove the rationale for drawing land council funding from the ABR.

They argue their position, in part, by referring to the elasticity of budget estimates that would allow any agency to claim all of whatever fixed amount was available to it. Part of the argument of the next section, however, is that a real assessment of the future needs of the major land councils, to some degree at least, can be based on history.

The amount of land council funding

At present, under s.64(1) of the Act, the land councils receive a minimum 40 per cent of MREs, divided amongst them on a population basis. This minimum has never been sufficient for their operations. They are also able to, and routinely do, have Ministerial approval for extra distributions under s.64(7) to cover the remainder of their administrative expenses. By totalling these s.64(1) and s.64(7) distributions, we can ask on what total proportion of MREs land councils have functioned historically. The following table sets this out. The table gives, for each year, the total percentage of mining royalty equivalents distributed to the land councils by the ABR under both sections 64(1) and 64(7), before and after MWT. In other words, the second figure for each year is the percentage of MREs the land councils actually received in their budgets.

In averaging these figures, the year 1978/79 can be eliminated from the calculations because the land councils at that time were restricted to their 40 per cent share under s.64(1). For the period of 19 years, 1979/80 to 1997/98, the average share of mining royalty equivalents received by the land councils before MWT was 53.8 per cent, and the average share received after MWT was 51 per cent. Land councils have thus been operating on an average income of 51 per cent of MREs in the period 1979/80 to 1997/98.

Under the Financial Management Strategy (FMS) imposed by the Labor Government, land council administrative expenses have remained frozen at 1993/94 levels (Altman and Pollack 1998: 2). If we then divide the 19-year period into the years 1979/80 to 1993/94, prior to the FMS, and the years 1994/95 to 1997/98, after implementation of the FMS, the average share received after tax was 50.5 per cent during the former period, and 53 per cent during the latter.

Table 1. Total ABR distributions to land councils under ss.64(1) and ss.64(7) as a percentage of MREs, before and after MWT

Year	Before MWT (per cent)	After MWT (per cent)	Year	Before MWT (per cent)	After MWT (per cent)
1978/79	40.0	37.4	1988/89	64.8	62.5
1979/80	66.9	62.7	1989/90	43.6	41.5
1980/81	48.6	45.5	1990/91	42.9	40.4
1981/82	65.7	61.5	1991/92	52.1	49.2
1982/83	41.8	39.3	1992/93	87.2	82.4
1983/84	41.7	39.3	1993/94	51.1	48.4
1984/85	47.4	44.5	1994/95	59.8	57.6
1985/86	40.6	38.2	1995/96	72.3	69.5
1986/87	43.9	41.3	1996/97	42.5	40.9
1987/88	63.7	60.2	1997/98	45.9	44.1

Source: Prepared from the figures given in Tables 6 and 7 of Reeves (1998: 323, 325), as corrected and added to from figures in the ABTA/ABR Annual Reports for the three years 1995/96 to 1997/98.

In the absence of information on the break up of land council budgets between different functions, and on estimated future needs, there is some inexactness in the next step. If we:

- assume that MWT, which all observers (for example, Altman and Pollack 1998: 22; Reeves 1998: 363–4) have considered iniquitous or illogical, can be abolished, as HORSCATSIA (1999: 69) has now recommended,
- allow for the phasing out of the land claims period, which will not only remove the cost of claiming land but also the cost of associated legal challenges from the land councils' budgets (see below), and
- presume that the main purposes to which land councils will have to direct increased funding for the foreseeable future are regionalisation (which we take to be a substantial but relatively finite commitment), and land management both as conservation and development (the limits to which are probably not predictable),

then 50 per cent untaxed of MREs should provide an adequate share for further expansion of the land councils' non-land claim functions. Note that this does not address directly the problem mentioned at the beginning, of relating funding to functions, but it addresses it indirectly, by devising a percentage share based on the history of how much the land councils have needed to do their jobs. The proposals here then are that:

- the statutory share of mining royalty equivalents distributed to the land councils for administrative expenses should be increased to 50 per cent; and
- MWT should be abolished.

The advantages of these proposals over current arrangements are that they provide a real increase in funding for areas of activity that will become of increasing importance in the post-land claims era, and they enhance the political

independence of funding. The latter is so because the proposed 50 per cent share includes not only that component of present funding that is guaranteed by statute, but also that further component that is currently subject to Ministerial discretion (see further below). A disadvantage is that funding is still not directly determined by functions. This is the point on which the government members of HORSCATSIA (1999: 73–4) based their position against any reserved allocation of money to the land councils (see above).

Supplementary funding of land councils

The proposals canvassed so far, for ten-year averaging of MREs and a 50 per cent untaxed share for land council administration costs, are intended to both remove the irregularities of royalty-based income and set it at an adequate level. In other words, they attempt to address the supply-side problems of land council funding. From that point of view, there should be no need for land councils to annually request Ministerial approval for supplementary funding from the ABR under s.64(7). Certainly these top-ups should no longer be regarded as a routine component of land council administrative funds.

That view, however, should be subject to demand-side considerations. Because funding, under these proposals, is still not directly determined by functions, unusual demands on land council funds may arise periodically that cannot be accommodated within the usual run of planning based on royalty flows. On balance, an argument could therefore be made for maintaining some provision for top-ups, conditional on the land councils making out a case to the Minister for exceptional circumstances to justify supplementary funding. The onus to demonstrate exceptional circumstances would lie with the land councils.

In view of the fact that the proposal for funding at 50 per cent of MREs is argued above in terms of presumed functions in the post-land claims era, a particular issue that arises here is the funding of the remaining land claims and associated legal cases. The Northern Land Council's (NLC) (1999: 15) submission to HORSCATSIA recommends a conference between the land councils and the Northern Territory Government to devise a means of expediting the finalisation of the land claims era, a suggestion treated favourably by the Committee (HORSCATSIA 1999: 145). Given the apparently universal concern to wind up outstanding claims, whether by this or some other means, it is reasonable to presume that some limited further period will be settled upon in which to do this.

Once this period is known, provision could be made for the costs to the land councils, or such as cannot be met from their existing budgets, to be met by way of supplementation. To achieve this, the Minister would be required to accept these land claim and legal costs as arising from exceptional circumstances; his discretion should be circumscribed or removed for this purpose and period. This could be framed in versions that are soft or hard on the land councils:

- require that the Minister accept land claim costs as exceptional circumstances for a given period, but not thereafter; or

- allow the Minister in his discretion to accept land claim costs as exceptional circumstances for a given period, but not thereafter.

Either form would provide an incentive to the land councils to ensure land claims are finalised within the agreed period, because after that period they would lose, or lose the possibility of, additional funding for that purpose. Which version should be adopted depends on how much control the land councils have over the progression of land claims. That would be a point for the land councils to argue.

There remains the question of whether the source of supplementary funding should continue to be by further distributions from MREs under s.64(7), or from consolidated revenue (Altman and Pollack 1998: 11). This question is dependent in the first instance on the priority given to alternative uses for the 50 per cent of MREs left over after the statutory distribution to land councils. Secondly, however, given the measures recommended here to increase and stabilise the value of MREs as a land council funding source on the basis of past history, an argument could be made that further demands should be subject to further accountability. Allocations from consolidated revenue subject to negotiation of workload agreements would offer such accountability and bring this aspect of land council funding closer to the model of Native Title Representative Bodies under the Native Title Act.

Our proposals with respect to supplementary funding of land councils are thus that:

- the Minister may authorise supplementary funding to a land council for administrative costs where he is satisfied that exceptional circumstances have been made out by the land council to justify such a distribution;
- for a given period, the Minister will/may accept costs associated with the finalisation of all land claims by the land councils as arising from exceptional circumstances; and
- any authorisation by the Minister for supplementary funding will be subject to the land councils entering a workload agreement covering the use of the supplementary funds.

Royalty associations

'Royalty associations' is here used in the narrow sense to refer to those associations incorporated for the purpose of receiving and managing the 30 per cent share of MREs distributed to areas affected by mining operations. The two major land councils have been responsible for establishing these associations, and for determining the distribution of statutory royalty equivalents to them under ss.64(3) and 35(2) of the Act. A number of issues have arisen in relationships between land councils and such royalty associations since the passage of the Land Rights Act. This section discusses these issues and, on some

points, suggests how they might be better addressed. They can be grouped under the headings of accountability, owed by royalty associations for the proper use of moneys distributed to them, and insecurity, that arises for them from the terms and application of s.35(2)(b). This section then considers distributions to such associations from the ABR.

Accountability

Within the general issue of accountability, a number of more particular issues may be subsumed:

- prevention of fraud and misappropriation;
- the legitimacy of individual cash distributions;
- identification of community purposes and demonstration of community benefit;
- the need for compulsory long-term investment to ensure post-royalty survival; and
- the appropriate agency to which associations are to be accountable.

With respect to the first of these, at least one early instance of fraud and misappropriation was facilitated by lax accounting and reporting practices. However a recent case concerns an association which has, according to Reeves (1998: 355), regularly and properly satisfied such requirements. The question thus arises as to what further accounting or reporting requirements would need to have been in place to have prevented that occurrence? The NLC argued to the Reeves Review (Reeves 1998: 319) that it needs 'specific power to assist royalty associations to carry out their responsibilities under the Act'. Such a power would, the NLC argues, provide a range of measures by which it could intervene in Association affairs in a manner less drastic than the one measure now available to it, the withholding of royalty distributions. It would be relevant for the NLC to be able to show that such a power would have been sufficient to prevent that recent occurrence of alleged misconduct.

On the legitimacy of individual cash distributions, considerations arise of the consistency between the legal character of those payments and of the social policy underlying land rights. Woodward (1974) several times expressed and has recently reiterated (HORSCATSIA 1999: 79) his concern that land rights moneys be applied to community purposes. The legal position that has been asserted in the wake of the Reeves Review is that royalty equivalents are private moneys once in the hands of the land councils (NLC 1999: 39). This apparently means that prohibition of individual cash distributions to association members can be effected in one of two ways: by land council policy, presumably as one of the conditions that they would attach to royalty distributions under the NLC's proposed amendment to s.35(2), or by legal prohibition as recommended by Woodward (1974: 114), requiring amendment to the Land Rights Act. Given the view widely held within the land councils, which asserts individual rights over

private moneys, the former possibility may be unlikely. HORSCATSIA (1999: 79) has recommended the latter.

The third issue of expenditure on community purposes raises the problem of substitution, discussed further below. As this is a field in which the activities of a royalty association should be complementary to those of other larger players, it would be an appropriate area for negotiation in the context of emerging regional service delivery agreements. Westbury and Smith (1999: 12–13) argue that such agreement-making capacity needs to be enhanced by amendments to both the Land Rights Act and other statutes. HORSCATSIA (1999: 46–7) acknowledges Smith's (1999) point that Indigenous Land Use Agreements under the Native Title Act provide 'inspiration' for thinking about the versatility of such agreements, but believes (as does the NLC) that the existing s.19 of the Land Rights Act is already adequate and offers unrealised scope for agreements involving a wide range of agencies. While the Committee's concern here is primarily with agreements to secure the rights of Aboriginal residents living on others' traditional land, it contemplates other purposes that such agreements could serve. One such purpose should be to provide a negotiated political framework in which royalty associations can address the particularities of their areas' needs in a manner that does not excuse government service deliverers from their responsibilities.

The fourth issue, the notion of compulsory investment, would presumably only arise in the case of development projects that were sufficiently large and long-lived to allow the accumulation of a major capital fund from an invested share of royalties. The financial difficulties experienced by the Gagudju Association with the Crocodile Hotel, and by Ngurratjuta Aboriginal Corporation with the Glen Helen Lodge (Altman and Smith 1999: 8–9), raise the question of whether long-term post-royalty income is best secured by directing a proportion of funds into passively compounding investments, rather than into actively managed businesses that are intended to serve an unprioritised mix of social, cultural and economic ends.

With respect to the final issue, regarding the appropriate agency to which royalty associations should be accountable, the NLC submission that extra powers are needed for land councils to intervene in association affairs is again relevant, as is its proposed amendment of s.35(2) to allow conditional royalty distributions. Do the land councils consider that concurrence from the royalty associations is necessary before such further powers are vested in the land councils? Relationships between land councils and royalty associations now have a substantial history, and have in some instances been difficult or even hostile. (see Altman 1996). The NLC emphasises a new mutuality in the accountability relationship that it wishes to establish. It seeks statutory power to enter into an agreement with an association in which the land council would guarantee payments of MREs to it for a certain period. The association would, in return, commit itself to a regime of financial management that particularises such matters as investment level, reporting to members, expenditure for community purposes, membership and the like. The legacy of past dealings may mean some

associations will need to be satisfied as to the mutuality of the land council's proposals.

In more general terms, it is pertinent to observe here that the entire process leading to the establishment of a royalty association—the identification of traditional owners in the areas of an exploration license and a proposed mine, the negotiation of a mining agreement on behalf of the traditional owners and other affected groups, the determination of the area affected by a mining operation, the determination of an association's membership and the appointment of its governing committee—intimately involve land council staff in local consultations and advising and amount to a profound intervention in the local politics of the area affected. On the one hand, such intimacy affords land councils a foundation of local knowledge from which effective oversight of association affairs can later be applied. On the other hand, that same intimacy inevitably manifests itself in particular orientations with respect to different and possibly competing local interest groups.

The onus should be on the land councils to show that they can ensure impartial and professional monitoring of all royalty associations. Whatever weakness they suffer in this area should be seen to be outweighed by the weakness of other possible monitoring agencies in their lack of local knowledge or in other aspects of monitoring capacity, if a case is to be made out for enhancing land councils' ability to oversee Association affairs.

This is one issue on which HORSCATSIA (1999: 81–5) is divided. While non-government members of the Committee favour the NLC proposals, government members wish to sever the funding and accountability relationship between land councils and royalty associations altogether. They propose instead a new grants scheme administered by the ABR Advisory Committee for each area affected by mining. The other agencies that they consider to have expertise to assist the ABR in this new role are the Aboriginal and Torres Strait Islander Commission (ATSIC), the Australian National Audit Office, the Department of Finance and Administration, and the Commonwealth and Northern Territory Grants Commissions. Government members anticipate that these organisations would advise on accountability mechanisms in the design of a 'best practice grants scheme' (HORSCATSIA 1999: 82).

Insecurity

The establishment of royalty associations is governed by the terms of s.35(2)(b) of the Act:

Moneys paid to a Land Council under sub-section 64(3) shall be paid, within 6 months of their receipt by the Land Council, to—

- (a) ...
- (b) any Incorporated Aboriginal Associations the members of which live in, or are the traditional Aboriginal owners of, the area affected by those mining operations;

in such proportions as the Land Council determines.

The insecurity arising for royalty associations from this sub-section and the application of its terms has a number of aspects:

- the section gives no guidance as to how to define the 'area affected' by a mining operation;
- it is unclear by what criteria the area affected has been determined in particular cases and what relationship exists between the servicing catchment area of various associations and any definition of the area affected by their mining operations; and
- the actual memberships of some associations are not coextensive with their constituencies as defined by the section.

The Act does not identify which agency has the power to decide the area affected by a mining operation, but as the land councils decide distributions under s.35(2)(b), they have also exercised that definitional power. The problems that can arise are most clearly demonstrated in western Arnhem Land. The original disagreement within the NLC in 1982 regarding the area affected by the Ranger Uranium Mine, the de facto acceptance of the Gagudju Association as the appropriate recipient of s.35(2) distributions from that mining operation for the next 14 years, the unilateral decision by the NLC to adopt a restricted definition of 'area affected' that then disqualified Gagudju from further direct receipt of royalty equivalents, and the criticisms of that restricted definition that have since flowed (for example, the Kakadu Region Social Impact Study (KRSIS) 1997: 33–4), demonstrate firstly that the terms of the section are open to a range of opinions as to the proper definition of 'area affected', and secondly, that that uncertainty can be a source of radical insecurity for royalty associations. The case of the Ngurratjuta Aboriginal Corporation (Altman and Smith 1999: 19–20) in central Australia further demonstrates that the two major land councils are operating with different definitions of 'area affected'. The current situation is plainly unsatisfactory.

This insecurity has a second aspect. Once the area affected has been decided, all traditional owners and residents of it, and only they, are entitled to membership of the incorporated association. Where the membership includes only some portion of that constituency, it is open to the remainder to separately incorporate and demand a share of the royalty equivalents. Conversely, where the membership includes some people that are considered by the land council to fall outside the prescribed categories, the association may be deemed ineligible to receive royalty equivalents.

The NLC (1999: 79) proposes that a concept of 'people affected' should be introduced instead. This may allow an escape from its current restricted view of 'area affected' that allows only for direct physical impacts. Indeed, the attempt by Parks Australia North, to elaborate a definition of 'area affected' that includes social effects, proposes the identification of 'people in their social groupings' (Reeves 1998: 320) as a means of arriving at an expanded definition of affected

lands. The NLC's approach is more economical in that it takes that middle stage as the immediate end point.

'People affected', however, raises its own definitional problems. Some category restrictions must apply to the term 'people'. If we accept the view that payments to traditional owners of the mine site are partly in the nature of compensation and partly rent, then the rental aspect will ensure their payments regardless of effects: they receive rent for having traded a property right. For all residents, however, and possibly for traditional owners of the area affected outside the mine site, payments are in the nature of compensation. The entitlement of residents must therefore logically be restricted to those in established residence at some originating moment (such as discovery of the mineral or the beginning of construction), or at least with a substantial past history of residence that can later be resumed; that is, those whose lives have been impacted upon by the arrival of mining. Such strictures are necessary both as a matter of underlying policy logic and to address potential problems arising from economic migration.

That leads to the more elusive problem of what kinds of effect are to be compensated. Again the question is whether, and to what extent, it is possible to move beyond direct actual or apprehended physical impacts: the land alienated for the mine and town, or areas that would receive downstream contamination. Reeves observed that the present regime makes no allowance for the different spread or kinds of impact different mining operations may have, nor for the positive effects a mining town may produce (Reeves 1998: 359, 361, 368). Is the mere re-orientation of lifestyles around a new regional metropolis, to neither demonstrably positive nor negative effect, something to be compensated? Are secondary effects, such as increased tourist activity along mining roads, compensatable?

The proposal to be put here is that the people socially affected by a mining operation are those traditional owners and residents who participate in the same 'effective political community' as the primary traditional owners of the mine site. The limits of that effective community may become evident during negotiations for the mining agreement, or may be defined by direct consultation with the traditional owners. The rationale for compensation here is, perhaps, idiosyncratic, but it focuses on the burden of management, the extra duties of self-determination, manifested most clearly in the proliferation of meetings, that a mining operation brings upon a people.

Two points may be noted about this proposal. There can be no claim that the notion of 'effective political community' resolves the problem of determining boundaries any better than the notion of 'area affected' has so far done. To that extent, one definitional issue is simply being replaced by another. This, however, may be one of those instances referred to by Sutton (1999: 49) where the 'legislation should ... create conditions in which the appropriate 'catchment' of decision-makers in relation to Aboriginal land can best be determined case by case'. (Consider also Keen's overlapping concept of the 'jural public' (Levitus

1991: 165).) In the simplest of cases this political community may be conveniently defined by the membership of a pre-existing association. In any event, while the proposed concept may not offer a simple process, it should provide the touchstone for a sensible outcome.

Second, it may be that such an emphasis on the effective political community tends to favour established proximate residence over distant traditional connections, though that itself will vary with the perceptions of the primary traditional owners themselves. If so, then that is probably continuous with the pre-contact balance of influence in mundane matters of resource management, and will serve to confine the servicing range of the new association to a more discrete area. It should be recalled that Woodward (1974: 114) conceived of this class of beneficiaries in terms of the 'local community', and until the 1987 amendments, s.35(2)(b) itself referred only to people who lived in the area affected. In other words, this is one area of the Land Rights Act in which traditional ownership appears not to have been contemplated by the original policy makers as bestowing unilaterally superior entitlements.

This section has canvassed ongoing aspects of insecurity and indeterminacy in the affairs of royalty associations operating under s.35(2)(b). They are matters that go to the 'constitutionality', so to speak, of a royalty association; whether the association falls within, or outside, the terms of the section. Moreover, they are matters that are under the control of the relevant land council during the foundational phase. It should therefore be incumbent upon the land council to establish an association in a manner that guarantees its legal entitlement to receive royalties under that section. That is, the land council should be able to warrant that its determinations of affectedness, and of consequent membership rules and entitlements, satisfy the terms of the section and provide an association with a secure legal niche. Such warrant needs to be binding on the land council, which presumably would entail some form of indemnity against any future loss of royalties consequent upon a successful challenge to an association's entitlements. As a matter of general equity, such an indemnity could be seen as corresponding with that given to mining companies regarding the validity of the land council's entry into mining agreements.

Such an arrangement would not preclude a land council from establishing more than one association to share royalties at the outset, or from anticipating the need for another association at a specified later time, provided that the first association was aware of that eventuality from the outset. Nor would it preclude a challenge to an association arising from its own subsequent membership decisions, or from changes that it made to its own rules. It would, however, provide a settled determination of the 'area affected' or 'people affected' by a mining operation that could not be changed without the consent of the association and the land council, unless by some arbitration process. It would further seek to protect an association from the unanticipated diversion of some proportion of royalty income to a new association claiming an unrepresented, or overlapping, portion of the affected constituency.

As discussed above, the NLC has proposed that land councils should have available the instrument of conditional royalty distributions to ensure accountability by royalty associations. If the land councils are the appropriate bodies to which royalty associations are to give account, then our argument is that this overseeing role is properly exercised only with respect to the operational performance of an association. It is not properly exercised with respect to matters that go to an association's 'constitutionality', which it should be the land council's responsibility to guarantee on the basis of the adequacy of the establishment procedures that it applies.

In order to remove the conditions of insecurity created for royalty associations by the current application of s.35(2)(b) of the Act, our proposals are that:

- at the time a royalty association is established, the responsible land council should warrant to the association, with supporting indemnities, that the association's initial membership rules and list and the criteria of affectedness applied in determining them, are such as to secure its legal position and entitlements under s.35(2)(b); and
- in determining 'affectedness' for the purpose of defining an 'area affected' or 'people affected', the usefulness of a concept of 'the effective political community' to identify those groups that have and will carry the burden of managing the implications of mining, should be considered.

Distributions from the ABR

At the moment associations established under s.35(2)(b) receive 30 per cent of MREs from the ABR via the land councils. This is the only aspect of Woodward's original formula that is still intact (Altman and Pollack 1998: 8–9). Since then a range of different percentage shares have been advocated for these associations (see Appendix Table A1 for a chronological summary of options). The HORSCATSIA Inquiry (1999: 69–72) evoked further proposals and the Committee did not reach agreement, with members arguing between 30 per cent and 40 per cent shares. The various suggested apportionments of MREs have been supported by competing, but no compelling, arguments. Logically, before any sensible percentage share can be arrived at, two prior issues need to be dealt with. The first of these has already been discussed: how to determine the area affected, or people affected, by a mining operation. On this will depend the identification of beneficiaries, their number and geographical spread, and allow some estimate of their material need. As this is unlikely to have a uniform outcome in every case, it provides little guidance towards a uniform percentage share.

The second issue is that of substitution: the allocation of government funding away from areas perceived to be capable of independently servicing their needs from MRE income. The level of substitution that now appears to have occurred in the area affected by the Ranger Uranium Mine is such as to have

seriously compromised the material benefits flowing from that mine since 1981. The KRSIS Advisory Group's (1997: 35) Report found:

The net result is that local people are not much better off, despite the extra money from mining and tourism ... The objective of governments and developers is clearly to optimise the benefits of development to local communities. There is apparently sufficient degree of substitution of benefits to subvert this objective.

Altman's (1998: 6, 19) recent report on outstation resource funding moved beyond anecdotal evidence to document the marked under-funding of the Kakadu area by comparison with the hinterlands of Oenpelli and Maningrida. His case studies give figures for western Arnhem Land that suggest the alarming possibility that the Kakadu region is actually, on balance, worse off by reason of having received mining royalty equivalents.

The practice of substitution thus appears to have caused the major regional failing of current financial arrangements under the Land Rights Act to date. While the previous question concerning area affected asks how large the recipient group is likely to be, the question of substitution asks how mining royalties can be made to give them any net benefit. A number of alternative preventive strategies are conceivable:

- the possibility could be explored of tying ATSIC or the Northern Territory Government into dollar-for-dollar arrangements with affected group associations over common areas of concern;
- conversely, royalty association expenditure could be directed to projects outside the purview of official funding agencies;
- a major increase in the percentage of MREs going to affected groups would reduce the need for official funding; and
- a reduction in that percentage would make it apparent to external funding agencies that royalty income could not substitute for other sources. Similarly, a geographically broad definition of affected groups would spread royalties thinly, and remove the perception of independent wealth that motivates the psychology of substitution.

These last two options further complicate the question of defining an 'area' or 'people affected'. Clearly no single percentage share can answer to the equity or compensation concerns of every case. The first two options lend themselves to implementation within the context of a negotiated regional service delivery agreement, as discussed earlier, when such strategic future issues can be bargained out in a way that provides most usefully for whatever percentage share of royalty equivalents will be due to the affected groups.

While no case is made here for any particular percentage, a caveat must apply to existing associations. If the 30 per cent share is reduced, then either the change should only apply to future mining agreements, or some compensatory arrangements must be put in place for associations operating under existing agreements. Further, if the term 'area affected' is retained in the Act, the NLC will

need to re-think the implications of its narrow, physical-impact interpretation, in particular, the undesirable public appearance and local politics of large amounts of money being given to very small groups of people.

The residual share of mining royalty equivalents

Currently this share is available to the ABR for the purpose of general grants to Northern Territory Aborigines under s.64(4). The amount granted has ranged between \$0.5 million and \$9.56 million per annum (Altman and Pollack 1998: 7). This has not occurred as a steady increase; there have been major and repeated fluctuations. The annual disbursement level is a sum of payments made in respect of grants approved in previous years, and new grants. Unlike land council administrative costs, which can be protected against fluctuations in MRE levels by supplementary distributions under s.64(7), the amount available for s.64(4) grants is a residue. When MRE income to the ABR dropped by 45 per cent in 1992/93, no new grants were made to Northern Territory communities for that year or the next. The granting level is currently fixed by the FMS at an annual distribution, Territory-wide, of \$5 million, a sum that appears inconsequential against the servicing budgets of ATSIC and the Northern Territory Government.

There are two issues here: first, whether the amount available for grants is worth the trouble of maintaining an artificially separate structure and process; and second, if the spread of benefits from MREs to Territory Aborigines generally is seen to be a necessary policy concern, whether the services provided by land councils should be seen instead of ABR general grants as the primary means of spreading these benefits. If a separate general grants process out of the ABR is abandoned, then two options present themselves for disposal of the residual percentage of MREs.

- Pay it into ATSIC's general Northern Territory budget: this retains the amounts for the benefit of Territory Aborigines, but eliminates the separate administration.
- Divide it between land councils' administrative costs, which, under the first set of proposals in this paper, should be increased to 50 per cent of MREs, and the proportion going to affected groups, which could also rise, as some have proposed, to 50 per cent: this offers some greater philosophical consistency by directing funding originating from mining into land and resource management issues.

While HORSCATSIA made no recommendations with respect to this issue, the Chair of the Committee expressed sympathy during hearings for the claim of Northern Territory Aborigines generally to retain some entitlement to direct access to MREs, and the Inquiry Report (HORSCATSIA 1999: 72) makes reference to the concern of non-government members to retain a balance between the amounts distributed to areas affected by mining and to other groups. The investment fund that the ABR has accumulated will soon offer another

possibility. This fund had grown to \$48 million in 1998 (ABR 1998: 21, 38). Walter and Turnbull (1993: 9–11) recommended the achievement and maintenance of a fund of \$64 million in 1993 dollars in order to sustain a granting regime of \$5 million annually from income. When such a fund balance is achieved, it could replace the present residual allowance from MREs. Further increase of the capital base could also be provided from land council surpluses.

Conclusion

Reform can be comprehensive without being radical. The reaction to Reeves demonstrated that radical reform is not welcome among the Aboriginal public affected by the Land Rights Act. Reeves did, however, demonstrate that a reforming moment can be used to rethink all aspects of a system. That is appropriate at this moment of generational change, when the dominant concern of acquiring a land base is giving way to issues of ongoing management, development and participation. This paper has aimed to rethink the financial workings of the Act while respecting the established structures.

In doing so, we have looked both to the persistent problems that have emerged from more than twenty years of operation of the existing system, and to the anticipated needs of the future. Further, we have tried to move beyond the operational difficulties experienced by the land councils, to look also at issues of institutional security for those less prominent and powerful organisations, the local royalty associations. In sum, from among the various stakeholders in this system, we do not believe that there needs to be any losers from this reform process, and that the opportunity and ideas are available to improve the adequacy, predictability and security of the financial operations of the Act for all of its organisational participants.

Appendix A

Table A1. Chronological summary of options, historically proposed or implemented, for division of MREs

Context	Areas affected Per cent	Land councils Per cent	Grants (and loans) Per cent
ABTF (pre-ALRA)	10		90 (inc. loans)
Woodward (1974)	30	40	30
ALRA (1976)	30	40 (max)	30 (max)
ALRA (amended 1979)	30	>40	<30
Rowland (1980)		CRF ^c	
Altman (1983)	30	40 + CRF ^c	30
Toohey (1984)		Status quo as per 1979	
Altman (1985 ABTA Review)	30	40	30
Industry Commission (1991)	70	CRF ^c	30
Reeves (1998)	Discretionary	Fixed at \$400,000 for each of 18 RLCs ^a ; NTAC ^b funded from MREs and CRF ^c for land claims	Discretionary

Note: a. RLC = Regional Land Council.

b. NTAC = Northern Territory Aboriginal Council.

c. CRF = Consolidated Revenue Fund.

Source: Adapted from Altman and Pollack 1999.

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