



NORTHERN LAND COUNCIL

Our Land, Our Sea, Our Life

Address all correspondence to:
Chief Executive Officer

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ABN 56 327 515 336

22 August 2022

Mr Julian Hill, MP
Chair
Joint Committee of Public Accounts and Audit
PO Box 6022
Parliament House
Canberra ACT 2600

By email: jcpaa@aph.gov.au

Dear Mr Hill,

Re: Report 488 Commonwealth Financial Statements 2019-20 (Recommendation 2)

I write to update the Committee in relation to the Northern Land Council's progress in addressing the significant legislative breach identified by the Australian National Audit Office.

Expedited distribution (Report paragraphs 2.18-2.23)

Between July and December 2021, the Northern Land Council (NLC) established a Benefits Distribution Unit (unit), implementing the recommendations of a 2020 independent business case report. The unit comprises four new staff trained for field consultations with traditional owners (a manager and three project officers) and staff reassigned from the NLC's Royalty Finance Unit and Anthropology Branch.

Below are the strategies undertaken to expedite distribution payments:

- The Unit began consulting traditional owner groups on 16 September 2021, soon after recruitment of new staff. The unit consults a traditional owner group comprehensively about all income from all sources payable to or for its benefit. A key priority for deciding which groups to meet earliest is the opportunity to distribute the largest total of funds held longer than six months.
- Consultations included 15 "money meetings" arranged only for this purpose. The unit can arrange and pay for on-country traditional owner consultations if this can result in distributing significant funds accumulated for longer than six months.
- The unit also presents each traditional owner group with a budget estimating future regular income from all sources, seeking a standing payment arrangement for three years or more. On receipt of future funds, the NLC can distribute on the basis of standing arrangements already put into place, and need not re-consult the recipient traditional owner group. The unit has accumulated numerous sets of these standing payment

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arrangements and is developing a system for managing these, along with a method of evaluating the effect of these on accumulating balances.

- Traditional owners can authorise the NLC to defer payment longer than six months under sub-section 35(9), but this must be in writing. The unit identified substantial funds, much of it held more than six months pursuant to such written requests. In 2021 the Royalty Trust Account Sage 300 software application was enhanced, in order to distinguish aged funds that the NLC ought to have distributed within six months, from aged funds held by request under sub-section 35(9). This enhancement was tested during early 2022 and commissioned just after close of accounts for 30 June 2022. Numerous sets of past receipts held under sub-section 35(9) are being distinguished in the accounting system with this enhancement, which also automatically applies to new receipts as they are received for income sources covered by sub-section 35(9) requests.
- The unit has identified many situations where traditional owners have informally requested deferral of distribution. Examples are where a group wishes to accumulate funds for an expensive project, and where traditional owners wish the NLC to accumulate 12 months' receipts for payment just before Christmas. Benefits Distribution Project Officers are seeking written confirmation of these, to formalise them under subsection 35(9). Since September 2021, we have adopted the practice of formalising under sub-section 35(9) any traditional owner requests for deferral of payment.

Assessing the effectiveness of these strategies as at the close of the 2021-22 financial year:

- By 30 June 2022, the NLC had distributed \$38.316 million in section 35(3) negotiated and section 35(4) rental land lease moneys (combined), an improvement on \$31.590 million for the previous year.
- Section 35(3) and (4) payments are of receipts pursuant to sections 15, 16, 19, 42, 43 and 44. All receipts which the NLC has been unable to distribute within the section 35 six months timeframe are receipts of these kinds.
- However, these kinds of receipts also increased, from a total of \$37.174 million in 2020-21 to \$44.521 million in 2021-22. This had an effect on total receipts held for more than six months.

The new strategies depend on consulting traditional owners on their country, but this was only possible for 20 weeks during 2021-22. COVID-19 travel restrictions prevented consultations between 16 November 2021 and mid-April 2022. The unit recommenced on-country consultations on 12 April 2022.

The NLC increased distributions in spite of COVID-19 travel restrictions gives us reason to continue to pursue the above strategies. We will also add the following:

- The unit is seeking an efficient way to identify imminent new revenue-earning agreements in time to consult traditional owners about benefits distribution at the same time they consent formally under subsection 23(3) to an agreement. In most cases, traditional owners will agree that an existing standing payment arrangement regarding existing agreements will apply to receipts for a new agreement.

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- An agreement area will often cover territory belonging to more than one traditional owner group. If all these groups give their informed consent under sub-section 23(3), the NLC is authorised to enter an agreement. Therefore, precise understanding of each group's land share of the agreement area is not needed for agreement-making. Yet, when a rent-like receipt under the agreement must later be divided among groups, good understanding of each group's land share is valuable, perhaps essential. The unit is funding external assistance for anthropological research to delineate group areas within one large Aboriginal Land Trust, in order to identify each traditional owner group's share of accumulated rent-like receipts, in order then to consult each group about distribution. This particular research will resolve a land succession issue, and the validity of adoptions by senior people who have passed away, which impede distribution. The unit is seeking to devise an efficient way to research land shares in the many areas where agreements have been made without an understanding of group territory boundaries, in order to overcome delays in distribution. Most of these agreements are in the vast Arnhem Land Aboriginal Land Trust and Port Keats/Daly River Aboriginal Land Trust, both granted as Schedule 1 Aboriginal land without the estate area research which accompanied traditional land claims.

Unallocated funds (Report paragraph 2.21)

On 21 July 2022 the NLC applied to the Northern Territory Supreme Court for approval for a manner of distributing certain funds which cannot be attributed to particular traditional owners. At the first hearing on 17 August 2022 the Court listed the matter for hearing on 7 September 2022.

I have arranged for a copy of this letter to be given to the Australian National Audit Office, in order for the Office to have time to update the Committee in accordance with Report Recommendation 2.

I trust the above satisfies your requirements, if you or your staff have any further questions on this matter, please contact myself or Irfan Bhat (General Manager Corporate Services)

Yours faithfully

Joe Martin-Jard
Chief Executive Officer

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