

**The Ngurratjuta Aboriginal Corporation:  
a model for understanding Northern Territory  
royalty associations**

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## Summary

Some 25 years after the implementation of the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA) and with the legislation currently under review and 'at risk', as some have argued, it is timely to reconsider the class of organisation referred to as 'royalty associations'. This paper examines the organisational history, objectives, and activities of the oldest royalty association in the Northern Territory, the Ngurratjuta/Pmara Ntjarra Aboriginal Corporation (hereafter referred to as 'the NAC' or 'the Corporation'), and presents key findings made by the Centre for Aboriginal Economic Policy Research's recent review of that organisation. The opportunities and challenges encountered by the NAC are described in order to highlight lessons relevant to all indigenous royalty associations.

## A model of royalty associations

The paper develops a general model of royalty associations *per se*, and makes a considered evaluation of the related public policy implications arising from the review by John Reeves QC (1998) into the ALRA and the subsequent inquiry by the House of Representatives Standing Committee into Aboriginal and Torres Strait Islander Affairs.

## Findings

It is concluded that, in performing their primary function of receiving, managing and distributing moneys, royalty associations operate in a critical position as brokers and negotiators between two economic systems of production and distribution. As result, they:

- have become multi-dimensional financial organisations, delivering a wide range of social, economic, cultural and political services;
- need to target their functions and service delivery to key financial activities in which they have a competitive niche;
- should secure service delivery agreements with the Aboriginal and Torres Strait Islander Commission (ATSIC) and government to ensure their activities are part of a coordinated approach to regional service delivery;
- would benefit from a consortium approach to obtaining independent commercial expertise and advice;
- should separately and collectively undertake a period of strategic planning;
- should have their operations broadly monitored by the land councils; and
- will need to maintain dual investment strategies, preferably by way of statutory or constitutional commitment, which ensure both income stream protection for future members, and income generation to facilitate enterprise development and targeted employment.

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## Introduction

Aboriginal royalty associations in the Northern Territory, of which there are estimated to be over 50,<sup>1</sup> are at an important juncture in their organisational development. Implementation of recommendations made by John Reeves QC (1998) in the review of the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA) would signal the effective end of such associations. Aside from the implications of Reeves's far-reaching recommendations, royalty associations also face challenges posed by possible Statehood for the Northern Territory and the concurrent operation of the *Native Title Act 1993*. The latter legislation establishes a newly defined class of native title holders and prescribed bodies corporate to act as their agents in the future management and use of lands and waters where native title is determined. Against this backdrop, Northern Territory royalty associations will need to make hard-headed reassessments of their future directions and of what outcomes can realistically be achieved for their members.

The Centre for Aboriginal Economic Policy Research (CAEPR) has had a long-standing research engagement with the issue of resources development on Aboriginal lands, including research into the establishment and operation of indigenous organisations such as royalty associations under the ALRA; and into the financial and resource development provisions of the *Native Title Act 1993*.<sup>2</sup> The most recent CAEPR review by Altman and Smith (1999) has been conducted over 1998-99 into the operations of one of the Northern Territory's oldest royalty associations: the Ngurratjuta/Pmara Ntjarra Aboriginal Corporation (hereafter referred to as 'the NAC' or 'the Corporation').

Some 25 years after the implementation of the ALRA and with the legislation under review, and 'at risk' as some have argued (Altman, Morphy and Rowse 1999), it is timely to reconsider this class of organisation as a whole. Firstly, this paper examines the organisational history, current objectives and activities, and challenges facing the NAC in the context of the key findings made by CAEPR's review. Secondly, that analysis is then used as the basis for developing a general model of royalty associations *per se*, and for making a more considered evaluation of the related public policy implications raised by the Reeves review and subsequent inquiry by the House of Representatives Standing Committee into Aboriginal and Torres Strait Islander Affairs (HORSCATSIA).

## The CAEPR review

The Alice Springs regional office of the Aboriginal and Torres Strait Islander Commission (ATSIC) commissioned a major review of the NAC as part of its periodic review activities and because of concerns about the Corporation's future directions in the context of the complex financial issues surrounding one of its major investments, Glen Helen Lodge. The NAC made a financial contribution to the review costs to confirm its active role and participation in the process. The

review terms of reference negotiated with ATSIC and the NAC were broad, and are outlined at Appendix 1.

While the review represented the first independent review of the entire NAC group, many of its key entities had previously been separately reviewed or assessed; including Ngurratjuta Air (Deloitte Touche Tohmatsu 1997), the outstation resource section (Palmer 1996), and Glen Helen Lodge and its tourism activities (Judge 1996). The Corporation also conducted its own internal strategic planning review in 1994-95 (NIS Australia Pty Ltd 1995).

The CAEPR review was comprehensive and conducted in stages. Both authors carried out extensive interviews with the NAC Board and Executive, management, staff, members and outstation residents, as well as with ATSIC, other key organisations and industry groups. An interim confidential report on the Glen Helen situation was provided to ATSIC, the NAC and the Central Land Council (CLC) in July 1998. A comprehensive draft review report was next provided to the NAC (management, Board and staff) and to ATSIC (Alice Springs) for comment in September 1998. In 1998, CAEPR also participated in a national policy review of outstation resource agencies in which the NAC was included as a case study and all outstations serviced by it were visited. The NAC was provided with a copy of that report and findings were incorporated into the final review document. A comprehensive exit interview was conducted over two days by the authors with the NAC Board, staff and management in early March 1999, during which draft findings and recommendations were discussed in detail. The draft report was subsequently revised to reflect their feedback. A final report was provided to ATSIC and the NAC in early April 1999 (Altman and Smith 1999).

## **The NAC: what kind of organisation?**

The NAC is an unusual Aboriginal organisation. It is one of the oldest 'royalty associations' operating in the Northern Territory, having been incorporated in 1985 under the Commonwealth *Aboriginal Councils and Associations Act 1976*. NAC members are traditional owners and residents of areas deemed to be 'affected' by oil and gas production operations at Mereenie and Palm Valley.<sup>3</sup> Based in Alice Springs, the Corporation has a documented and regularly updated list of over 2,000 Western Arrernte and Luritja people residing at about 70 member communities and outstations in a large region in Central Australia. Its area of operation is bounded by communities like Papunya and Haasts Bluff in the north, Mt Leibig in the west, outstations within Watarka National Park and by Tempe Downs in the south, and by the Stuart Highway on the east, making it also the largest royalty association in the Northern Territory. All these communities fall within the ATSIC Papunya Regional Council jurisdiction; most now have community governments and numerous community organisations and resource agencies with membership and objectives that often overlap those of the NAC.

The organisation's primary function is its role in receiving, managing and distributing 'areas affected moneys' under s.35(2) of the ALRA, as determined by the CLC. Corporation members also receive mining moneys paid with respect to the Mereenie oil and Palm Valley gas projects under s.35(3) and s.35(4) of the ALRA. These payments include 'private' royalties negotiated under the Mereenie and Palm Valley Agreements, and access to statutory gas pipeline and mining lease payments. In the period 1985 to 1998, the NAC received approximately \$10 million in mining moneys ('areas affected moneys') via the CLC and has been the conduit for an estimated further \$3–\$3.75 million of negotiated and other mining-related payments.

While the NAC is a royalty association, its activities have broadened significantly since 1985. In its submissions to the Reeves review and to the subsequent inquiry into the review by HORSCATSIA (NAC 1998, 1999), the NAC describes itself as a service body whose functions are financially underwritten by royalty equivalents, but whose primary objectives are related to community development and betterment. The object of the Corporation, as formally set out in its Constitution, is primarily to assist Aboriginal people in member communities in need of assistance to relieve their poverty, sickness, serious economic disadvantage and social distress (clause 6.1). The Corporation is somewhat optimistically required to advance this object by:

- assisting Aboriginal people in the communities to gain access to housing, health, education, employment, essential services and social services;
- assisting in alleviating significant unemployment by assisting in the provision of employment opportunities and with training; and
- arresting social disintegration within Aboriginal society by conducting and promoting programs to promote Aboriginal self-management (NAC Constitution, clause 6.2).

It is a concern that the fundamental reason for the establishment of the NAC—to distribute and effectively utilise moneys paid under the ALRA—is not formally recognised in its constitution, notwithstanding its mention in the Corporation's 1995 strategic plan (NIS Australia Pty Ltd 1995).

The Corporation's documented vision is to establish 'financially independent Aboriginal communities with inter-community co-operation'. This goal is clearly beyond any single organisation. The current mission of the NAC sets out goals which are eminently more realistic and achievable; namely:

- to utilise royalty funds to build an active investment base which will:
- protect accumulated royalty funds;
  - provide a growing income base for the member communities; and
  - stimulate job opportunities and/or venture activity for members, while actively supporting community development activities and infrastructure improvements in member communities (NAC Mission Statement).

In accordance with these objectives, the activities of the NAC have gradually expanded over a 15-year period to include:

- royalty trust account management and acting as a ‘clearing house’ (that is, disbursing a proportion of ‘areas affected moneys’ and negotiated payments and ensuring that such benefits flow to the ‘right people’ for community benefit);
- the development and management of an investment portfolio made up of a diverse set of assets;
- tourism project support services;
- the establishment and operation of an accounting service (Ngurratjuta Accounting Service); and
- the establishment and operation of an outstation resource agency.

## **The current activities of the NAC**

The NAC’s activities can be categorised, for analytical purposes, as: commercial/investment; service provision; and mixed (commercial and cultural) activities. Such a three-way classification is problematic because every service or activity incorporates a combination of these categories and all NAC activities are, arguably, seen by members, Board and staff as containing a necessary blend of these objectives. However, that blend can make specific objectives unclear and rigorous monitoring of performance difficult.

## **Current financial management and cash redistribution activities**

The core function of the NAC is its financial management of mining moneys in which it fulfils two quite distinct roles. On the one hand, it receives moneys after CLC determination (under s.35(2) of the ALRA), that it applies for the benefit of people deemed to be affected by the Mereenie and Palm Valley oil and gas projects. On the other hand, the NAC distributes a proportion (25 per cent) of negotiated agreement payments and statutory lease and rental payments to traditional owners. Two quite distinct arrangements have been established by the Corporation to utilise these moneys.

Since 1985-86, areas affected moneys (s.64(3)) have been broadly utilised in three ways:

- to partially fund the administration of the NAC (at the rate of about \$150,000 per annum);
- with 50 per cent of the balance used to finance its enterprise and investment activities; and
- the remaining 50 per cent being earmarked for ‘distribution’ to NAC members via a mechanism known as Trust 1.

Trust 1 distributions are made to groups of individuals at communities and outstations. They cannot be made in cash and must be spent in accord with a set of rules sanctioned by the NAC Board. There is a distinction between Trust 1

beneficiaries who receive Mereenie or Palm Valley moneys, with the former generally better off than the latter, at least in recent years, although considerable fluctuations are evident over the Corporation's history.

It is estimated that in the period 1984–85 to 1997–98, approximately \$10 million has been received by the NAC in mining royalty equivalents from the CLC, with about \$4.1 million of this being distributed to members in Trust 1 disbursements; about \$4.1 million being available for investments; and \$1.8 million being used for administration. The scale of the NAC's mining income is not dissimilar to amounts received by the Kunwinjku Association (latterly known as the Nabarlek Traditional Owners Association) in Western Arnhem Land, but with those organisations having a far poorer investment and expenditure performance than the NAC (Altman and Smith 1994).

In Trust 2 arrangements, the NAC acts as an agent for 27 Aboriginal incorporated associations within its member region who receive negotiated royalties, lease and rental payments payable under s.35(3) and s.35(4) of the ALRA that have totalled in excess of \$3 million. The undertaking of this role dates back to an agreement made with the CLC in 1986; it is a purely administrative function that is an additional organisational cost for, and service provided by, the Corporation. It exists primarily as a means to protect traditional owner members from tax liabilities and to utilise the organisation's charitable trust (public benevolent institution) status.

The above-mentioned mining moneys, that totalled an estimated \$340,000 per annum in 1997–98, are paid by the CLC's Aboriginal Associations Management Centre in two ways: 75 per cent is paid directly to 27 incorporated Aboriginal associations and 25 per cent is paid to the NAC and then returned to these associations for distribution for community purposes via Trust 2. The organisation has no information on how the larger portion (which is paid in cash) is utilised; it merely monitors and controls the 25 per cent that it distributes via a card system to 26 of the 27 incorporated associations (one association deals directly with Ngurratjuta Accounting Service).

While accurate information on Trust 2 distributions is available from the NAC, the CLC does not divulge the total value of these payments (on the grounds that they are 'private' moneys) and it does not appear that Trust 2 payments are recorded in the NAC's consolidated financial statements.

**Table 1. Broad distinctions between moneys in NAC Trusts 1 and 2**

<b>NAC Trust 1</b>	<b>NAC Trust 2</b>
Paid to residents of communities	Paid to traditional owners
Paid in accord with NAC rules	Paid in accord with CLC rules
Taxed (mining withholding tax) at source	Partly untaxed at source
Mining royalty equivalents	Private payments from companies
Some NAC discretion in payment	Little NAC discretion in payment

## **Current commercial and investment activities**

The commercial and investment activities of the NAC include ownership of Glen Helen Lodge; the holding of a small interest (4 per cent) in Kings Canyon resort; the purchase and letting of two commercial properties and a residential subdivision in Alice Springs; the holding of a major Namatjira painting collection; and involvement as a joint venturer in a sub-division development behind Diarama Village. While the NAC's ownership of Glen Helen Lodge was largely a commercial decision made in 1992 in conjunction with ATSIC, from its perspective the Lodge was purchased for a mix of commercial, cultural and political reasons. Similarly, its investment in a collection of Albert Namatjira paintings is commercially sound, but was undertaken for a mix of investment, cultural and historical reasons.

## **Current service delivery and resource agency activities**

The main non-commercial activities of the NAC are the royalty distribution functions that have been described above and its role as an outstation resource agency and accounting service. The organisation's outstation resource agency role is limited, for a variety of historical and indigenous political reasons, to 14 outstation communities that were not being serviced by others (see Palmer 1996; Altman 1998). Outstation residents represent an estimated 18 per cent of the Corporation's population.

The mixed activities of the NAC include Ngurratjuta Accounting Service provided at the same cost rate both to member communities and other Aboriginal and non-Aboriginal communities in Central Australia, and Ngurratjuta Air, an air transport and mail service to both member and non-member communities in Central Australia. Both Ngurratjuta Accounting Service and Ngurratjuta Air are run primarily as non-profit break-even operations, although Ngurratjuta Accounting Service has begun to generate a valuable operating surplus for the organisation in recent years.

## **Lessons from the NAC's organisational life cycle**

The NAC displays a number of features characteristic of the 'organisational life cycle' of any royalty association. Because of its organisational maturity, the NAC's life cycle provides a valuable model for newly established associations.

One of the Corporation's unusual features is the relative stability of its governing Board and key senior staff. Fourteen Aboriginal people are nominated as Board members from the major community populations, with seven comprising an Executive. This stability has been a clear advantage for the Corporation, and has been reported as a critical factor in indigenous organisational longevity and effectiveness in other contexts (see Smith 1996). In particular, it has meant that valuable corporate knowledge has been retained,

leading to consistent financial policies and decision making. Perhaps the noticeable down side of such stability has been a perception that key leaders and families dominate the organisation, and a certain organisational lethargy in the face of the changing political and economic environment.

To understand the organisational history of the NAC, it is useful to divide its development into three phases.

### **Phase 1. Overcoming conflict and determining beneficiaries**

The first phase includes the NAC's establishment in 1985 and growth until about late 1992. This phase has been described in some detail by its first executive officer (Marshall 1994). The Corporation was established in the aftermath of two or three years of payments of the first mining moneys to Aboriginal people in Central Australia. Initially, these moneys were distributed to beneficiaries (primarily to senior males within extended family groups) initially determined by the CLC to be either traditional owners of, or residents in, the area affected by the Mereenie and Palm Valley resource projects (see Marshall 1994; Stead 1997:169). The selective distribution of cash to key males and sometimes to the 'wrong' people, and its consequent rapid expenditure (during the period before the NAC was established) created considerable intra-Aboriginal conflict and meant that there has been no lasting beneficial effect from the early cash payments.

The first challenge for the NAC was to impose some discipline on the distribution and utilisation of these moneys. With advice from the CLC, who commissioned a major confidential consultancy report to identify a comprehensive list of all potential beneficiaries (male and female), numerous meetings were held throughout the region at which detailed beneficiary lists were agreed upon, and instructions were obtained as to how moneys should be managed to protect future income. As a result, after the NAC was established, the direct payment issue was relatively quickly rectified.

An instructive comparison is afforded by the early parallel history of the Kunwinjku Association in Western Arnhem Land, where distribution of large amounts of cash directly to a membership of over 1,200 people resulted in similar levels of conflict and resulting widespread wastage of income, and led to the formation of the Nabarlek Traditional Owners Association. However, in contrast to the NAC, the Kunwinjku and then Nabarlek Association subsequently failed to quarantine its remaining income stream and, under pressure to continue cash disbursements to individuals, is no longer financially viable (see Levitus 1991; Altman and Smith 1994; Altman 1996).

In the context of considerable regional Aboriginal conflict over who should benefit from oil and gas resource development payments, the NAC's solution represented a substantial achievement. Two broad policies, that remain current today, were instituted and have been a critical factor in its continued viability, in

the gradual settling of intra-Aboriginal conflict over cash disbursements, and its acceptance as a regional body:

- First, it was decided that mining moneys would not be paid to individuals, but would be spent on community purposes (Marshall 1994: 125).
- Second, it was decided that after making provision to meet the administrative expenses of the Corporation, 50 per cent of royalty equivalent (that is, s.64(3)) receipts would be invested and 50 per cent would be paid, on a per capita basis, into community and outstation trust accounts to be used for community purposes.

A clever innovation by the NAC that could be replicated elsewhere in Australia was the stipulation that 'community purpose' expenditure would only be made in accord with NAC guidelines; that such payments would not be made in cash, but would require invoicing to the NAC; and that two nominated signatories would be required to allow such expenditure.

Again, by way of contrast, the Nabarlek Traditional Owners Association continued to make disbursements of cash to individuals, even in the face of rapidly declining income streams. This resulted in endemic community disputation and conflict within the Association over its remaining period of operation. The lesson is clear: once the practice of cash disbursements to individuals becomes entrenched in a royalty association, it is very difficult to revoke.

Like some royalty associations elsewhere (see, for example, Altman 1996; and Levitus 1991 with respect to the Gagudju Association), the NAC grew primarily because it was able to finance the establishment of an administrative base (in Alice Springs) to serve its membership. In addition, it began to provide services to sections of its membership in the absence of any existing or competing service organisations, and in the face of an historical infrastructure shortfall by government. By about 1990, after an early problem in the late 1980s associated with a dramatic decline in royalty equivalent income, the NAC had become a well-established and relatively influential Aboriginal organisation in the Central Australian context.

## **Phase 2. Facing up to financial and commercial challenges**

The second phase in the NAC's history dates from 1990-95 during which time its fortunes changed. This was partly because of poor commercial advice and support which meant the Corporation's investment policy was of questionable soundness. A crucial early investment was the purchase of a block of residential flats in Alice Springs that provided it with poor returns, partly because this investment was heavily geared at a time when interest rates were high and because the property was purchased during a residential price peak.

From 1990, the NAC began negotiating for the purchase of Glen Helen Lodge, a small tourist facility with considerable potential in the heart of western Arrernte country. In 1992, this property was purchased for a greatly over-valued

\$1.75 million, with ATSIC providing a \$1 million loan and a \$300,000 grant and the NAC raising the balance. In 1994, the Alice Springs flats were sold to pay off the loan from a commercial bank on Glen Helen Lodge. During this phase, a number of challenges faced the NAC. First, it needed to obtain reliable and expert commercial advice from both government and the private sector upon which to realistically assess its proposed investment plans. Second, it needed to negotiate its continued legitimacy with both its membership (some of whom are traditional owners of the land upon which Glen Helen Lodge was built) and other influential Aboriginal organisations in the region (some of which are directed by persons who are also members of the Corporation). These challenges began to place increasing pressure upon the financial and operational capacity of the NAC, and, arguably, it was poorly served by the external advice it obtained.

### **Phase 3. A strategic reassessment of directions**

The third phase dates from 1995 to the present and is marked by the resignation of the first NAC executive officer, and a prolonged inability of the Board and a new management team to resolve the deteriorating commercial situation at Glen Helen Lodge which had come to dominate the attention of senior management and the Board. By 1997, Glen Helen Lodge was generating intolerable business losses to the NAC and was closed down as an accommodation facility. This raised important questions about the outstanding loan of \$1 million from ATSIC against which all NAC assets are secured and which soon fell into arrears.

There has been a degree of tension between the NAC and ATSIC about the history of the Glen Helen Lodge purchase and the issue of culpability. There has also been a view, which was supported by senior NAC management, that foreclosure on the loan by ATSIC would force the Corporation's closure. This is not the case; even the NAC's own financial advice (Record of Executive Meeting dated 24 July 1997) indicates that the forced liquidation of Glen Helen and repayment of ATSIC's loan could be covered, especially given the size of anticipated future royalty equivalent income streams outlined by the NAC (1998). This year, the NAC and ATSIC negotiated a five-year interest-free moratorium for the Corporation, with a grant to address ongoing infrastructure maintenance at Glen Helen Lodge. The Corporation has been unable to negotiate a management deal with industry for the future operation of the resort.

### **Evaluating the NAC: lessons for all royalty associations**

The diversity and breadth of the NAC's objectives and activities is mirrored in its mixed success and performance of its diverse portfolio.

## **Lessons from the NAC's financial activities**

In particular, and counter to some generic comments in the Reeves report (Reeves 1998), the NAC's royalty management and clearing house performance is exemplary and probably represents royalty association best-practice. Since 1985, only a minute proportion of its moneys have been available to individuals and since that time an ingenious method has been used to preclude payment of cash directly to individuals. This is occurring not just with Trust 1 areas affected moneys, but also with the proportion of agreement moneys, rentals and lease payments called Trust 2 moneys. While allocations are made on a per capita basis, these moneys can only be used for community purposes, with invoices used as a reasonably effective monitoring mechanism. The NAC does not distribute royalty equivalents to individuals. While there are some compliance problems, the Board policy on payments is generally adhered to.

Accountability in this area could be further enhanced by the Board developing positive written guidelines for community purpose expenditure, rather than negative guidelines that merely emphasise what cannot be purchased. Improved management of royalty flows could also be obtained by developing more prescriptive Trust guidelines, confirmed in writing and widely publicised to the membership. The purposes to which Trust 1 'community purpose' payments are applied could be monitored over time, to ensure that they meet guidelines. Trust 1 beneficiaries could also be encouraged, by written policy decisions to accumulate payments of significant amounts for family and community purposes and to record major purchases on a community assets register.

The NAC has maintained a consistent financial policy over many years that has been instrumental in its continued viability. Even so, it is clear from CAEPR's review that because of the complexity of the statutory provisions and its diverse functions, many members (including some on the Board) are still not familiar with the organisation's complex financial operations. A new education campaign should be developed by the NAC, in coordination with other associations and the CLC to better explain to members the concept of royalties, investment and related financial arrangements. Finally, the Northern Territory land councils should be given a statutory responsibility to monitor and annually report on the financial management and performance of all royalty associations in their regions.

## **Lessons from the NAC's commercial activities**

The challenges confronting the Corporation are common to other royalty associations; namely, the need to periodically revise its approach to economic development and investment by obtaining and implementing the recommendations of external reviews; by developing and updating business plans; and by securing access to independent commercial advice.

There are lessons to be learnt by all royalty associations from an over-reliance upon a single 'flagship' investment product such as NAC's Glen Helen Lodge (or the Gagudju Association's Crocodile Motel in the Top End). The

potential benefits flowing from a major financial commitment to a regional enterprise need to be carefully weighed against the possible negative impacts arising from volatile regional economies and the fact that tourism-based investments rarely generate substantial profit or significant local employment for Aboriginal members.

There are also lessons to be learned from an over-reliance upon internal or bureaucratic commercial advice. The NAC has historically been regarded as a dynamic and successful royalty association. However, there has been a growing perception since the late 1990s that it is in a period of relative stagnation. This perception is largely based on what is now regarded, with the benefit of hindsight, to have been a poor commercial decision, based upon poor commercial advice and a poor valuation, to purchase Glen Helen Lodge. The Lodge has been a significant psychological and financial drain on the Corporation, and its decline and eventual closure after five years has contributed to a regional perception (especially in the important tourism sector) that the Corporation's business performance is poor. The 'Glen Helen problem' has also strained relations with other key regional agencies, notably ATSIC and the CLC (representing traditional Aboriginal owners of land in the Glen Helen area, most of whom are also members of the NAC).

While the NAC's operation in terms of its royalty clearing house function continues to be exemplary, the object lesson is clear: one bad, if well-intentioned, commercial decision can diminish an association's regional reputation and endanger its financial capacity.

The NAC, like all royalty associations, would benefit from conducting a rigorous annual evaluation of its investment portfolio and related strategies to:

- assess which investments and assets are worth retaining;
- reassess its investment rate of return, benchmarked against the option of pursuing the low-risk rates of return available in the commercial banking sector; and
- develop business and strategic plans that clarify the range of social and economic objectives and their related future prospects.

Given the critical role undertaken by the NAC as a financial intermediary or broker for its members, it would benefit from securing access to a commercial advisory committee constituted of independent expertise to assist in the development of business and strategic investment plans. Royalty associations, in general, would benefit from initiating a consortium approach to accessing such advice. Alternatively, the Commercial Development Corporation could be provided with enhanced statutory responsibilities to provide independent financial advice to indigenous royalty and other commercial associations.

## **Lessons from the NAC's service activities**

The Corporation has attempted to target its service and charitable activities, concentrating on delivering a selected range of valued services including outstation support, an airline and aircraft maintenance and an accounting service. The outstation resource centre is almost entirely funded from ATSIC recurrent and capital funding, with some income (estimated at 3.5 per cent of the ATSIC grant) being earned from project management. A comparative analysis undertaken by Palmer (1996) indicated that the resource centre was among the most effective in the ATSIC Papunya Region. This view was reinforced by the national review of outstation resource agencies in which NAC service delivery to outstations was judged to be amongst the best in Australia (Altman, Gillespie and Palmer 1998). The quality of housing and infrastructure at outstations serviced by the NAC was found to be high by Australia-wide outstation standards. The reasons for this are primarily to do with the quality of NAC staff, both in terms of technical skills and effective planning for regular maintenance of housing, vehicles and infrastructure.

The accounting service is the main employer of NAC staff, and provides a valuable service to both member and non-member communities, at the same time as returning \$100,000 (20 per cent of turnover) to the organisation. While some clients are critical of the slowness of the service provided, and ATSIC has been critical of the standard and timeliness of grant acquittal information, the accounting arm provides an effective regional service in circumstances where, historically, many Aboriginal communities have been delivered sub-standard (and on occasions, illegal) services from accounting firms.

The accounting arm provides additional services to its member clients over and above those of a mainstream accounting firm; for example, staff often travel to communities to visit Aboriginal council and local government offices, to talk through issues with clients and go over bookwork. Many of these services are not charged for, though they would be in a mainstream firm. Recently, with the growth in demand for this service, the level of additional support and subsidised fee structure has flowed through to 'non-member' clients.

NAC management believe an important issue for this service in the future will be getting the 'right' balance between its profit-making and social objectives. Arguably, it currently provides a reasonably balanced blend of broad-based client service and profit making. However, the 'commerce-culture' mix underpinning the service needs to be more clearly spelt out, not only to confirm the legitimate role of such a mix, but also to provide a benchmark for staff and management as to the adequacy of service delivery in both areas. There are sound arguments for initiating a two-tier fee structure for this service that begins to approximate the market rate charged by profit-making accountancy firms. There is little sense in encouraging the accounting service to become more profit oriented and commercially sound, if it is to be constrained by having to offer a 'special' rate to non-member communities.

## **Lessons from the NAC's corporate structure**

The overall structure of the Corporation is poorly understood by some members, and the aims of a number of individual entities—especially in the tricky tradeoff between commercial and non-commercial objectives—are sometimes poorly defined. An important challenge for the NAC, as for all indigenous organisations, is to more clearly specify the organisational mix and intended outcomes of its cultural and economic objectives.

Perhaps the biggest challenge that confronts the Corporation is that of empowering the Board and membership to participate more actively in decision making. This accountability issue is not a fiscal one, as implied by Reeves (1998), for the NAC is an exemplary model in that regard. Rather, the more pertinent issue is that of information dissemination which is critical in terms of internal accountability to the membership (see Martin and Finlayson 1996; Sullivan 1996; Smith 1997). The Corporation needs to rejuvenate more regular, informed contact with its members; reinstate previous newsletters to members; publish policy guidelines and annual reports, and maintain an active field presence to communicate regularly with far-flung member communities.

The NAC Board and its Executive would benefit from training tailored to facilitate the complex financial operations and decision-making in which they are engaged. Local specialist training providers, such as the Institute of Aboriginal Development and Batchelor College, could be called upon to develop such training modules, which would prove invaluable for all royalty associations.

The main danger for the Corporation is that, despite its evolution into a mature royalty association with a stable and effective Board, there is a lack of strategic vision and organisational dynamism. It is salutary that despite an articulated vision to establish financially independent communities, the Corporation remains financially vulnerable in its indebtedness to ATSIC and vulnerable to wider political pressures for change (see Reeves 1998) which, if implemented, would see it without any guaranteed access to mining moneys.

The current life cycle stage of the Corporation highlights the need for it to urgently undertake strategic planning with renewed vigour. The wider political context within which it now operates has changed considerably since its establishment. Like all such associations, the NAC needs to routinely and continuously reassess its position within the regional and Territory-wide political economies in order to establish new, and renegotiate old, alliances.

## **Royalty associations: implications of the Reeves review**

Implementation of the recommendations in Reeves's (1998) review would signal the effective end of royalty associations. The report stereotypes the associations by using often unsubstantiated accusations and, by default, taints the NAC with a broader negative brush (see also Altman 1999; Levitus 1999). Yet the history

and operation of the NAC highlights the very features that Reeves advocates as best or preferred practice in such organisations.

Reeves argues that:

- the number of royalty associations needs to be rationalised and reduced (1998: 357);
- they lack appropriate accountability to government, land councils and their members (1998: 352-8);
- their moneys 'have largely been dissipated in ... cash payments to individual Aborigines' and have not been 'strategically applied to the social and economic advancement of the Aboriginal people of the Northern Territory as a whole' (1998: ii);
- they pay a substantial proportion of their income to individuals (1998: 2, 361-2); and
- they lack investment policy direction (1998: 366).

Initially, Reeves (1998: 357) recommends that a 'better system for [their] support, management, regulation and accountability should be developed'. But then, somewhat surprisingly, he performs a policy turnaround in the report's concluding chapter and recommends instead that:

- the statutory relationship between Aboriginal traditional owners and controls over, and benefits flowing from, Aboriginal land be severed and replaced by a new system of Regional Land Councils (RLCs) in which decision-making would be in the hands of a 'regional' Aboriginal population comprised of persons with 'traditional affiliation to land within the region, *and* those who are permanent residents' (Reeves 1998: 594-602, 604-10);
- the statutory formula whereby royalty associations like the NAC have received a proportion (30 per cent) of mining royalty equivalents for communities and incorporated groups in areas affected by mining should be abolished;
- their existing assets and liabilities be taken over;
- the RLCs should receive these moneys for the benefit of communities who can establish an actual adverse impact in net terms, taking into account receipt of negotiated payments and any countervailing benefits obtained from mining; and
- *all* other moneys raised on Aboriginal land, including Aboriginals Benefit Reserve funds, should be given to a new centralised body, the Northern Territory Aboriginal Council (NTAC), and either be invested or be expended by NTAC or RLCs (upon their grant application) on programs for the cultural, social and economic advancement of Aboriginal Territorians.

Reeves's assertions of wholesale wastage of funds and lack of compliance are over-generalised and largely unsubstantiated. Reeves contradicts his own assertion by noting that 'It would be misleading to claim that the whole of the balance [of royalty association moneys received under the ALRA] has been

expended on short-term consumption' (1998: 347). He further reports that 'only three had been found to be making payments to members when their rules prohibited such payments' (1998: 356); and that 'most ... had complied with the requirement to lodge financial returns' by the Registrar of Aboriginal Corporations and 'had a good record of compliance' with the Northern Territory Registrar (1998: 355).

It is unclear, then, why a review that purports to support principles of self-determination and is supposedly committed to improving future Aboriginal economic development would make recommendations that jeopardise the commercial interests of well-established and historically effective organisations such as royalty associations. Nor is it clear how the establishment of new regional and centralised institutions will provide services and socioeconomic advancement that will be superior to those presently provided in combination by royalty organisations, ATSIC, land councils and community governments - all of whom, arguably, have an established competitive advantage in a niche market. It is unlikely that ATSIC, royalty associations or other Aboriginal commercial organisations will voluntarily cede their budgets to NTAC.

The pertinent issue is not that there are some associations operating sub-optimally or wasting funds through direct cash distribution to individuals, though this has been the case for some. Rather, the critical issue is how can best-practice models and strategic economic directions already in evidence amongst some associations be implemented so that indigenous people benefit from land rights and resource development. To answer that question we must firstly develop a general model which clarifies how royalty associations *per se* have been operating. Only then can a more considered assessment be made of what kind of 'better system' is needed for [their] 'support, management, regulation and accountability' (Reeves 1998: 369).

## **A general operational model for royalty associations**

Reeves (1998: 312-13, 334) defines a royalty association as:

any incorporated Aboriginal association that receives:

- 'areas affected' monies; negotiated royalties or negotiated payments;
- gate monies; and
- other monies under the Act.

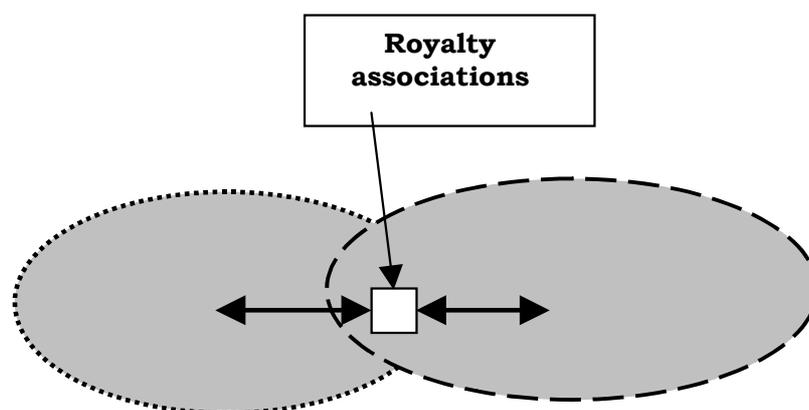
While this definition highlights the core statutory function of these organisations, it does little to help us understand the diverse range of activities and roles they now commonly perform. It is clear from a number of CAEPR reviews that, in performing their primary function of receiving, managing and distributing moneys, royalty associations have become multi-dimensional financial organisations offering flexible membership and organisational frameworks, and delivering a wide range of social, economic, cultural and political services.

As Figure 1 suggests, royalty associations are critically situated at the point of interaction between the Australian indigenous and mainstream economic systems. They are required to operate in both and hence are constrained by a 'two-way' accountability. This 'two-way' accountability operates at a number of levels and as a generic feature of indigenous organisations (see especially Martin and Finlayson 1996; and also Rowse 1992; Smith 1996; Sullivan 1996). On the one hand, a royalty association is constrained by an 'internal' accountability to its membership for the delivery of services and representation. This accountability is underpinned by culturally-based relations of the production and distribution operating within the indigenous economic domain. It is also part of, and hence constrained by, the indigenous political economy operating within its region. Its members are also members of social groups and community organisations; its Board members are invariably also members of other influential regional organisations and agencies. These overlapping family, community and organisational allegiances are an intrinsic feature of the indigenous political domain and cannot (nor should they) be expunged from the operation of any individual organisation. Internal accountability does mean, however, that organisations such as royalty associations should provide an efficient, transparent and professional level of service to their membership.

On the other hand, royalty associations are also constrained by accountability to an external constituency within the mainstream economy; in particular, to the public and private sectors that place significant demands upon them for financial and commercial accountability. The relations of production and distribution, and related criteria for accountability are often dissimilar, if not incompatible, across these two economic domains.

In best-practice examples, the placement of royalty associations enables them to act strategically as intermediaries, negotiators and service deliverers within and between the two economic domains. It also means they perform a valuable role in translating the economic rules and relations of production and distribution adhered to by each system, to the members of both.

**Figure 1. A model of royalty associations as intermediaries between two economic systems**





As a result of their critical jurisdiction, royalty associations as a class have become:

- financial agents, advisers and intermediaries on behalf of their membership and other incorporated associations;
- managers of investment portfolios;
- business administrators with employees and staff;
- enterprise developers and joint venturers;
- service providers to their membership (delivering, amongst others things, outstation, health, education, training, housing and infrastructure, accounting, transportation, land management and conservation, employment, and cultural services);
- resource and community development agencies;
- cultural representatives and political brokers;
- financial training and educational institutions;
- property owners and landlords; and
- charitable trusts and welfare organisations.

However, by operating across two economic systems, it seems many associations are expected by their members and outsiders, to be competent in all economic and service areas. This is simply not possible, and there lies a danger in associations becoming too diffuse and ineffective in their activities. Perhaps the greatest challenge facing associations is to realistically specify exactly what they can and cannot deliver to their members. The harsh reality facing associations and their members is that given the continuing historical, structural, locational and infrastructure disadvantage in communities; the low levels of literacy and numeracy of many of their members; the absence of a viable mainstream labour market in many regions; and the volatility of the resource development industry, they:

- will not be able to create economic self-sufficiency within regions or even single communities;
- should not be substituting for the delivery of essential services that government and ATSIC should be providing; and
- will not be able to create sustainable regional employment on a significant scale.

## Conclusions

The question then remains: what would constitute realistic objectives and appropriate forms of support for such associations? The larger royalty associations in particular, have carved out a competitive niche operating as financial intermediaries and brokers between two economic systems. Arguably, they would benefit significantly if their professional skills and services were targeted to key *financial* areas within that niche. To facilitate better performance and outcomes in the financial arena, royalty associations would be well advised to:

- maintain a mandatory minimal investment strategy geared to twin, but separately specified and monitored aims; namely, to maintain on the one hand, a quarantined income-protection strategy via blue chip investment and, on the other, to maintain a profit-generation strategy to create income for current operations and projects;
- develop such a ‘twin’ investment strategy on the basis of an organisational and constitutional commitment to maintain a quarantined percentage of income in secure investment;
- develop written rules and policy guidelines for the management and distribution of any moneys;
- receive funds transferred from land councils on the basis that they are therefore subject to mandatory monitoring by the land councils (which should, in turn, have a statutory requirement to report publicly on their performance);
- develop agreed-upon distribution mechanisms for moneys and other profits and, have these stipulated in association rules and published widely to members;
- specifically target the delivery of core financial services to further enhance their niche market position (these services could include accounting, financial and commercial advice, budget management, employment, financial training to Board members and others);
- selectively target *only a minimum set* of other services to be delivered (such as outstation resource agency, arts agency, and ceremony support services), but preferably leaving aside housing, health, general education, and infrastructure services which should remain the fiscal responsibility of government;
- obtain, independent commercial and financial advice, and strategic planning, from the private sector or organisations such as the Commercial Development Corporation (which could have a statutory function to provide such advice);
- negotiate agreements with land councils to periodically develop alternative mechanisms for the receipt and distribution of all moneys, and for monitoring such mechanisms;

- negotiate service delivery agreements with ATSIC, the Northern Territory and local governments, which clearly specify their respective responsibilities (including funding) for service delivery within a region; and
- maintain appropriate economic and culturally-based objectives which may be overlapping, which are documented in written policy guidelines and carefully monitored on the basis of different sets of key performance indicators.

A general model of the operation of Northern Territory royalty associations, developed on the basis of CAEPR and other research, highlights the fact that in performing their primary function of receiving, managing and distributing moneys, they have become multi-dimensional financial and service delivery organisations. They now offer flexible membership and organisational frameworks, often delivering a wide range of social, financial, cultural and political services.

Arguably, in the context of current changes, royalty associations need to target their functions and service delivery to the key financial activities in which they have a competitive niche, and to negotiate service delivery agreements with ATSIC and government to ensure their activities are part of a coordinated approach to regional service delivery. Collectively, they would benefit from: a consortium approach to obtaining independent commercial expertise and advice; from undertaking a period of collective strategic planning; from independent statutory-based monitoring by land councils; and from a system of annual public reporting.

In particular, royalty associations will need to maintain (preferably by way of statutory or constitutional commitment) dual investment strategies that ensure income protection for future members, and income generation to facilitate current enterprise development and targeted employment. Royalty associations in the Northern Territory will not be economic saviours and cannot alone create economically sustainable communities or widespread regional employment. The greatest challenge facing the associations will be to develop feasible and achievable goals in the face of pressure to do, and be, all things to all stakeholders. While some royalty associations may well need improved mechanisms for internal and external accountability, their Aboriginal members would benefit more from appropriate and effective forms of support, advice and training being made available to them, than they will from the wholesale replacement of established associations by an entirely new set of institutions.

## Notes

1. These associations vary in size and complexity with memberships ranging from ten-2,000.

2. See Altman 1983, 1997, 1999; Altman and Smith 1994; Finlayson 1997, 1999; Martin 1997; Smith 1997; Smith 1997; Smith and Finlayson 1997; Altman and Pollack 1998; Levitus 1999.
3. The 'area affected' by the Mereenie oil and Palm Valley gas projects was broadly defined by the Central Land Council for a number of reasons. First, the development projects were site specific at the well and gas outlets, but also had pipelines crossing large tracts of Aboriginal land. The oil outlet was not near a community, though the gas outlet was (Hermannsburg). The pipeline covered the traditional lands of a large number of groups from west of Areyonga to Alice Springs, and passed by outstations and communities. Accordingly, the Land Council and traditional owners determined that the fullest interpretation should be put on 'area affected' in order to include the wide range of traditional owner and community interests. Over a number of years, substantial research was carried out by the Land Council to comprehensively identify all those groups with rights and interests which might be affected by both the gas and oil outlets and related pipelines (see Marshall 1994; Stead 1997).

## **Appendix 1. Terms of reference for major review of the Ngurratjuta/Pmara Ntjarra Aboriginal Corporation**

1. Canvass, and provide an interpretative account of, the views of key members of the Corporation (office holders, indigenous leaders and outstation leaders) about the efficacy of the Corporation in terms of its stated objectives and policies and the extent of its accountability to all its membership.
2. Report on the views of the Corporation's members as to the appropriateness of the services provided to them by the Corporation.
3. Examine and report on the financial status of the Corporation and its related entities and assess the commercial viability of the Corporation and related entities.
4. Examine and report on the corporate structure of the Corporation, including the relationship between the Corporation and its related entities.
5. Report on the appropriateness of the Corporation's current staffing and structure to provide for these services.
6. Consult with the Corporation, ATSIC, the Central Land Council, traditional owners and others on the future direction of the Corporation, with a special focus on the commercial enterprises currently undertaken by the Corporation.
7. Consider any planning or economic development strategies that have been, and should be, established by the Corporation.

8. Provide a draft plan, incorporating recommendations, for the future operations and activities of the Corporation to be discussed with the Corporation's Executive and senior staff.

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<sup>11</sup>. These associations vary in size and complexity with memberships ranging from 10-2,000.