

Additional information on the Aboriginals Benefit Account

This paper provides additional information about the Aboriginals Benefit Account (ABA), as requested by the Hon Warren Snowdon, Member for Lingiari, at the 7 February 2020 hearing of the Joint Standing Committee on Northern Australia's Inquiry into the Opportunities and Challenges of the Engagement of Traditional Owners in the Economic Development of Northern Australia.¹

The paper describes the statutory functions and operation of the ABA, including its inflows and debits. Opportunities for reform are also detailed. For further information, the 2018-19 Aboriginals Benefit Account Annual Report (included as Appendix A of the Department of Prime Minister and Cabinet's 2018-19 Annual Report) can be accessed [here](#).

Purpose of the ABA

Statutory establishment

The ABA is a statutory Special Account established by the *Aboriginal Land Rights (Northern Territory) Act 1976* (ALRA).

The key purpose of the ABA is to receive and distribute moneys equivalent to the royalties generated from mining on Aboriginal land in the Northern Territory (NT). The ABA's predecessor was the Aborigines Benefits Trust Fund (ABTF), established in 1952 to collect royalties from mining undertaken on Aboriginal reserves 'for the benefit of Aborigines'. The ABTF was incorporated into the ALRA in 1976, renamed the Aboriginals Benefit Trust Account then renamed the ABA in 1999.

The ABA is a Special Account under the *Public Governance, Performance and Accountability Act 2013* (PGPA). The ABA is administered by NIAA in accordance with the requirements of the ALRA and the PGPA Act. The responsible Minister is The Hon Ken Wyatt, Minister for Indigenous Australians.

Inflows, Allocations and Expenditure

Inflows

The Commonwealth credits moneys into the ABA that are equivalent to the royalties received by the NT Government or the Commonwealth for mining on NT Aboriginal land. These payments are made from the Consolidated Revenue Fund. Royalty equivalents are determined by the estimated value of the statutory royalty payments.

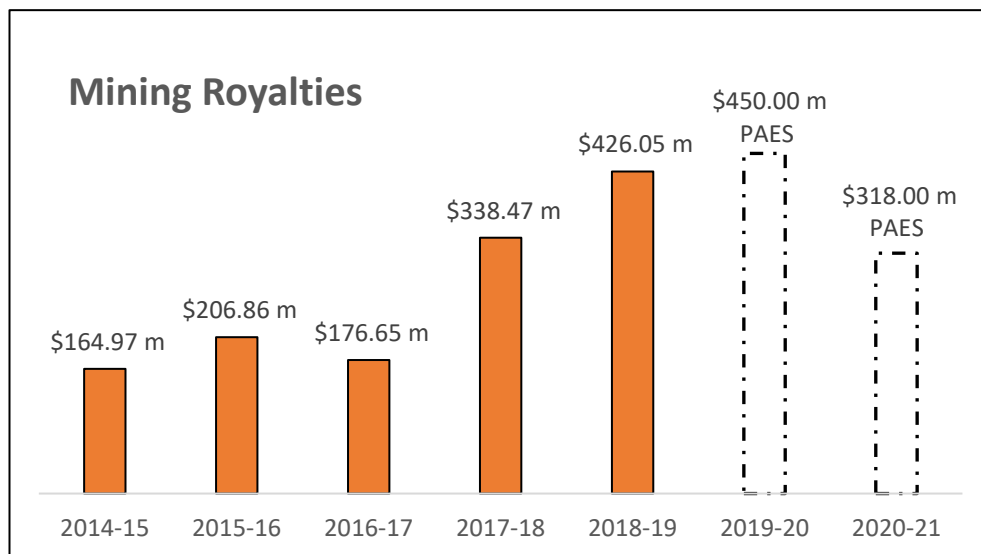
The total balance at 30 June, 2019, was \$1062.3 million, inclusive of expenditure commitments.

2015-2020 inflows

The current balance of the ABA follows several years of growth, where mining royalty equivalent credits to the ABA have significantly exceeded debits to the Account.

¹ Mr Snowdon's request can be found at page 41 of the transcript for the 7 February 2020 hearing.

The below graph details mining royalty equivalent credits to the Account since 2014-15.



* Portfolio Additional Estimates Statements 2019-20 (PAES)

Investment

In line with section 62A of the ALRA and section 58 of the PGPA Act, the ABA is currently invested in Australian bank term deposits. In 2018-19, invested ABA funds received a return of 2.67 per cent. Interest received from the investment of ABA funds is credited directly into the ABA’s bank account.

Allocations

As a Special Account, the ABA is public money. However, the Account has a number of legislated allocations established in the ALRA intended to benefit Aboriginal Territorians and to pay for the administration of bodies established in the ALRA. Allocations include:

Administration of the four Northern Territory Land Councils

The NIAA pays the administration costs of the four Northern Territory Land Councils from the ABA, under subsection 64(1) of the ALRA. The Northern Land Council, Central Land Council, Tiwi Land Council and Anindilyakwa Land Council each provide advice to the Minister regarding their funding needs, who makes the decision about their respective allocations.

Royalty equivalent payments to communities impacted by mining

The NIAA pays 30 per cent of any mining royalty equivalents received into the ABA to Land Councils for distribution to Aboriginal organisations (Royalty Associations) for the benefit of Traditional Owners. 30 per cent is a legislated proportion under subsection 64(3) of the ALRA.

64(3) Example payment to impacted communities

The Central Land Council works in partnership with Traditional Owners to direct resources into community development projects. Projects have included the Warlpiri Education and Training Trust Program (WETT), established in 2004 to use royalties from mining operations in the Tanami region to improve education and training outcomes for Aboriginal people in the area.

Payments for the benefit of Aboriginal people living in the Northern Territory

The ABA funds grants for the benefit of Aboriginal people in the NT, under subsection 64(4) of the ALRA. This is administered by the NIAA. In 2018-19, \$30 million of the ABA was allocated for beneficial grants, over two funding rounds. Four funding categories are available, including supporting enterprises; supporting community; supporting culture, language and leadership; and, supporting land, sea and waters management use.

The Minister makes decisions regarding beneficial grants with advice from the ABA Advisory Committee (ABAAC). The ABAAC is made up of Land Council representatives (7 Northern Land Council, 5 Central Land Council, 2 each Tiwi Land Council and Anindilyakwa Land Council), and is established under subsection 65(1) of the ALRA.

64(4) Example payment for the benefit of Aboriginal people

In the August 2019 funding round, Minister Wyatt approved \$488,300 of funding to Rise-Ngurratjuta Pty Ltd to construct a men’s shed at Kaltukatjara (Docke River).

Acquisition and administration of township leases

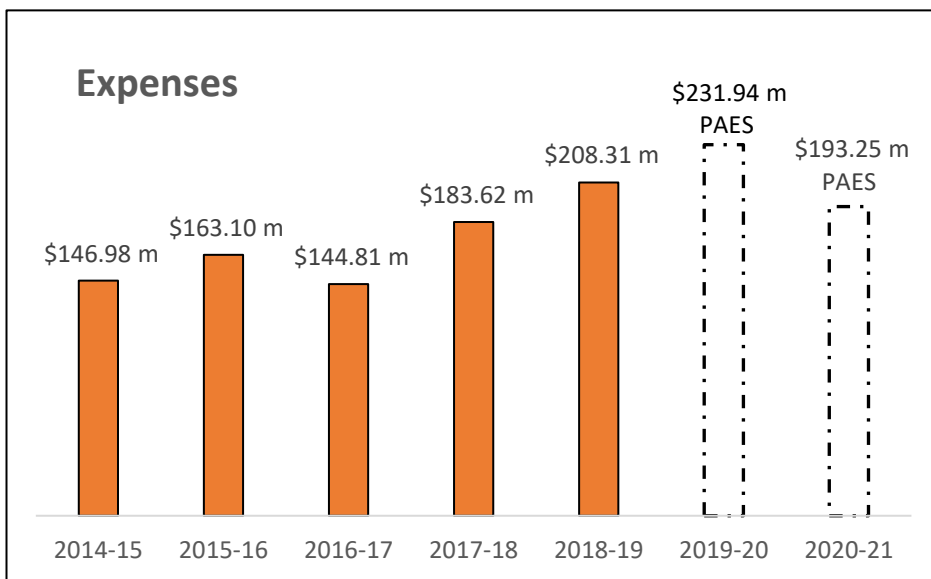
The NIAA pays the administration of the Office of Township Leasing and Narrariyal Aboriginal Corporation from the ABA, under subsection 64(4A) of the ALRA. The Office of Township Leasing and Narrariyal Aboriginal Corporation provide advice to Minister Wyatt over their funding needs, who makes the decision over this allocation.

Administration of the ABA

NIAA pays the administration of the ABAAC from the ABA, under subsection 64(6) of the ALRA. This includes the travel costs and sitting fees of ABAAC members. NIAA provides some in-kind support, including office space and staff support.

Expenditure

The level of ABA expenditure since 2014-15 is detailed in the Expenses graph. Fluctuations in the expenditure of ABA money have not matched the growth of mining royalty equivalent credits to the ABA.



** Portfolio Additional Estimates Statements 2019-20 (PAES)*

In 2018-19, the Commonwealth credited \$426.05 million of mining royalty equivalents to the ABA. A total of \$208.31 million was debited. The specifics of this expenditure is detailed in the following table.



Table 1. ABA expenditure 2018-19

Allocation	Amount
Administration of the four NT Land Councils	\$61.47 million*
Royalty equivalent payments to Traditional Owners	\$127.81 million*
Payments for the benefit of Aboriginal people living in the NT	\$10.29 million
Administration of Township Leasing	\$5.55 million
Administration of the ABA	\$3.19 million**

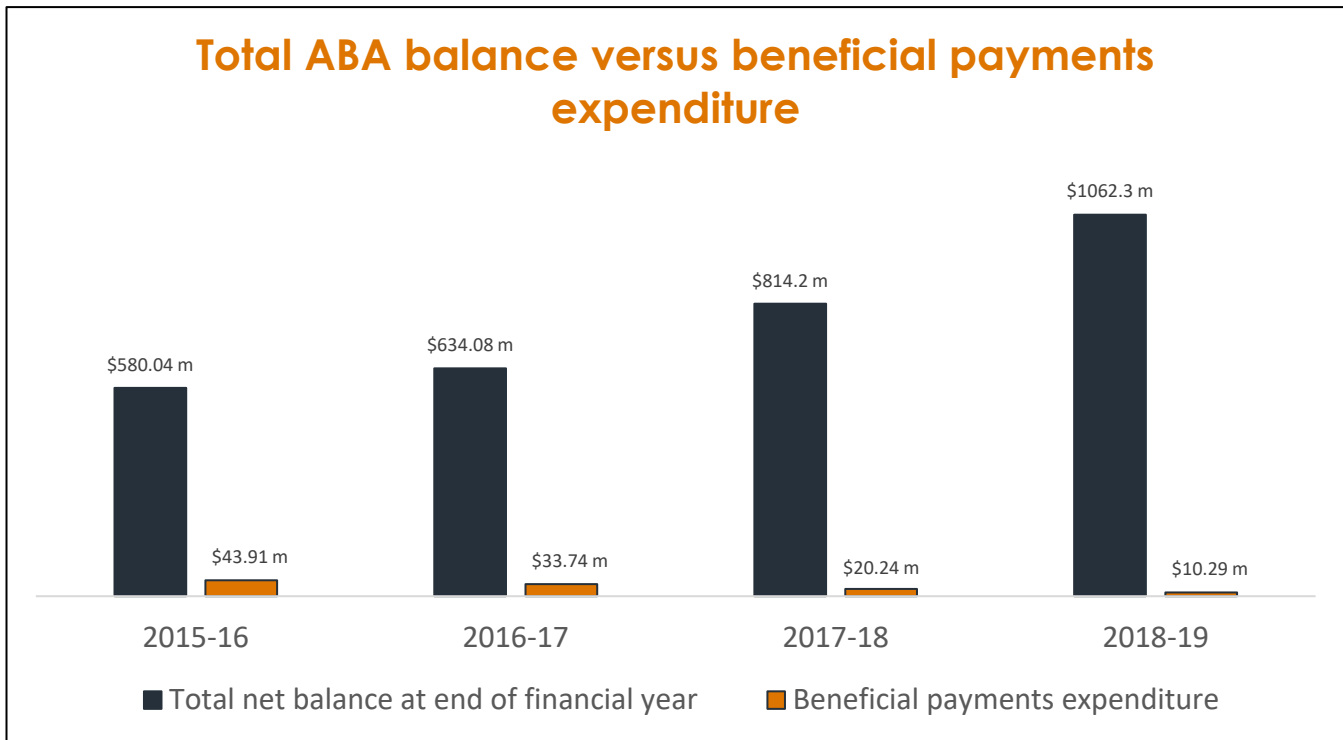
* includes Mining Withholding Tax. Corresponding to the Income Tax Assessment Act 1936, royalty equivalents credited to the ABA are subject to mining withholding tax at a rate detailed in the Income Tax (Mining Withholding Tax) Act 1979. The current mining withholding tax rate is 4 per cent.

** Includes resources provided free of charge by NIAA.

The Future of the ABA

Opportunities for improvement – beneficial payments

Compared to inflows, very little ABA money is being granted for beneficial payments for Aboriginal people living in the NT, under subsection 64(4) of the ALRA. Expenditure on beneficial payments has not matched the growth in mining royalty equivalents to the account, as seen in the following graph. This relative lack of spending on beneficial payments offers a key opportunity for reform.



Current work

Reforms to the ABA are currently being considered by Land Councils in the context of their 2018 joint paper, ‘Reform of the Aboriginals Benefit Account’, which outlines their views on opportunities for improvements to the ABA.

NIAA has formed a Working Group with members of Land Councils and the ABAAC. The Working Group has met five times since September 2018 and is focusing on reforms to increase Aboriginal control of the ABA.

One model under active consideration involves replacing the ABAAC with a decision making entity, with responsibility for subsection 64(4) beneficial payments to Aboriginal peoples. The structure, governance and potential funding arrangements of the proposed entity are the subject of current discussions. Discussions are also being held over whether the proposed entity could also provide advice on investment options for uncommitted ABA money under section 62A of the ALRA.

The Working Group agrees that an ABA entity has the potential to better support economic growth and cultural wellbeing in the NT. The entity could empower Aboriginal people to develop investment strategies for their communities. It could also cut red tape and strengthen transparent and accountable local decision making.

Any legislative reform to the ALRA is a matter for Government and the Parliament. The Government has committed not to amend the ALRA without the agreement of the Land Councils.

While these reforms are being worked through, the Working Group is endeavouring to increase the frequency and volume of beneficial grants applications received and approved under current arrangements, to put more ABA money into Aboriginal communities in the Northern Territory.