

CHAPTER 3

Land Fund Report 1999-2000

Statutory Reporting Requirements

3.1 Statutory requirements in relation to the Land Fund's annual reports are set out in s.193I of the ATSIIC Act. They include the requirement for the Minister to cause to be prepared as soon as practicable after the end of 30 June each year a report about the administration and operation of the Land Fund and its supporting legislation (s.193I(1)). These requirements were set out in Chapter 3 of this Committee's fifth report.

3.2 The following specific matters are required by s.193I(2) of the ATSIIC Act to be included in each Land Fund report:

- a) particulars of amounts credited to the Land Fund during the financial year;
- b) particulars of amounts paid out of the Land Fund during the financial year;
- c) particulars of investments of the Land Fund;
- d) the realised real return on investments of the Land Fund in respect of the financial year;
- e) such other information (if any) as is specified in the regulations.

3.3 Further, copies of annual reports are to be laid before each House of Parliament within 15 sitting days after the completion of the report (s.193I(3)).

Compliance

Tabling

3.4 The 1999-2000 annual report of ATSIIC, with the Land Fund report appended (Appendix 11), was presented to the Minister on 15 October 2000 and was tabled in

the Senate and the House of Representatives on 31 October 2000. The Land Fund report satisfied the tabling requirements.

3.5 Part of the Land Fund report is reproduced as Appendix 1 to the ILC annual report for 1999-2000.

Specific Matters

Amounts credited to the Land Fund

3.6 The 1994-95 Budget committed \$200 million to the Land Fund. On 4 July 1995 \$123,178,000 was appropriated to the Land Fund. This amount represented the first of nine (indexed) annual allocations of \$121 million from 1995-96 through to 2003-04. Each year the amount is to be indexed to maintain value in 1994-95 dollar terms. The fifth special appropriation of \$136,359,000 occurred on 2 July 1999 (p.204).¹

3.7 In 2004, Government allocations to the Fund will cease and the ILC will receive the realised real return on investments of the Fund in the previous year. By that time, it was originally envisaged that the capital base of the Fund would be sufficient to guarantee ongoing operational funding for the ILC. However, the last three annual reports of the Fund have suggested that the return on investment may not be sufficient to ensure the target balance envisaged in June 1994.

3.8 The target balance is defined in s.193AA(2) of the ATSIC Act as \$1,106 million (indexed). Should the target balance not be met, s.193AA of the ATSIC Act provides for a one-off top up payment to the Land Fund. As noted in the Committee's fourteenth report, it would aid clarity if the report on the Land Fund specifically noted that the target amount is assured by the Commonwealth.²

¹ Page numbers refer to the *Aboriginal and Torres Strait Islander Commission Annual Report 1999-2000*.

² *Fourteenth Report of the Parliamentary Committee on Native Title and the Aboriginal and Torres Strait Islander Land Fund*, p.20.

Amounts paid out of the Land Fund

3.9 In the reporting period an amount of \$50,712,000 was drawn down to the ILC from the Land Fund.

Investments and realised real returns

3.10 The value of the Land Fund on 1 July 1999 was \$638,221,710. An amount of \$85,647,000 was appropriated to the Land Fund at the commencement of the reporting period, taking the value of the base investment of the fund to \$723,868,710. The value of the fund at 30 June 2000 was \$784,498,585. This amounts to a realised real return on investments for 1999-2000 of 6.20% (p.205).

3.11 The most recent report advises that, at 30 June 2000, the required real return to reach the target amount was 3.70 % per annum (p.206).

Structure of the Land Fund

3.12 From 1 January 1998 the Aboriginal and Torres Strait Islander Land Fund became a Reserved Fund within the Commonwealth Public Account known as the Aboriginal and Torres Strait Islander Land Fund Reserve. From 1 January 1998, money in the Land Fund has to be invested in accordance with ss.39(1) and (8) of the *Financial Management and Accountability Act 1997* (the FMA Act).³

3.13 The FMA Act was further amended by the *Financial Management Legislation Amendment Act 1999* to replace the reserved funds with special accounts. As a result, from 1 July 1999 the Land Fund Reserve was converted to a special account under s.20(1) of the FMA Act known as the Aboriginal and Torres Strait Islander Land Fund Account.

Investment outcome

3.14 The Land Fund report records that:

The real return achieved on investments for 1999-2000 was in excess of the 3.80 per cent that was identified as the requirement at

³ As a result of the 1999 amendments to the FMA Act, the relevant subsections are now ss.39(1) and (10).

20 June 1999 to reach the June 2004 target balance. While this is a good result it is not one that can likely be sustained given current market conditions (p.205).

The Land Fund report further notes that:

The ongoing declining yields on ILBs (inflation linked bonds) will make the task of achieving the target value in 2004 increasingly difficult (p.205).

3.15 The report states that the investment consultants engaged by ATSIC to review the performance of the Land Fund 'have consistently pointed out the risks of a shortfall in the target balance' (p.206).

3.16 The Department of Finance and Administration is conducting a review of the investment options of the Land Fund in light of the ongoing evidence of a likely shortfall in the 2004 target balance (p.206).

Summary

3.17 The financial statements of the Land Fund annual report for 1999-2000 received an unqualified audit. Further, reporting about the Land Fund for 1999-2000 complies with the legislative requirements.