

COMMONWEALTH GRANTS COMMISSION

INDIGENOUS FUNDING INQUIRY

SUBMISSION

From: Northern Territory Government

Submission No.: IFI/SUB/0030

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Commonwealth Grants Commission
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Dear Alan

RE: Indigenous Funding Inquiry

I enclose the Northern Territory's submission to the Indigenous Funding Inquiry.

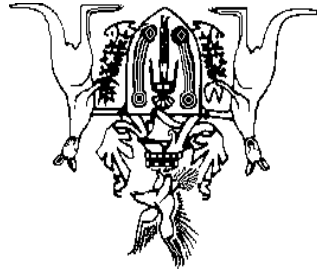
I apologise for its late arrival but unfortunately our Public Finance Division is extremely short staffed and the preparation of the submission coincided with our Budget preparation.

I understand that the Commission will be in the Territory in late June. I look forward to meeting you and the other Commissioners at that time.

Yours sincerely

K B Clarke
Under Treasurer

June 2000



NORTHERN TERRITORY

SUBMISSION

FOR THE

COMMONWEALTH GRANTS

COMMISSION

INDIGENOUS FUNDING INQUIRY

MAY 2000

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1.1.	The Commonwealth allocates significant funds for services to indigenous Australians. These are provided in many ways, through the Commonwealth's own programs and through Specific Purpose Payments provided to States and Territories.	

- 1.2. The establishment of this Inquiry indicates that the Commonwealth wishes to have a better understanding of the current level of resource input and, the extent to which it is directed on a needs basis. The Commonwealth has also sought options for alternative, needs based assessment methods.
- 1.3. The high proportion of indigenous people in the Territory and the associated level of expenditure on indigenous services means that the Northern Territory has considerable interest in the Indigenous Funding Inquiry.
- 1.4. The Northern Territory supports the Commonwealth in its initiation of this Inquiry. In our view there is no doubt that the Commonwealth Grants Commission is the most authoritative organization to undertake this important and complex task. The Commission is both expert and independent and regarded as such by informed commentators.
- 1.5. The Territory does not underestimate the task before the Commission, particularly in the time available to undertake its work. It seems likely that the lack of available data including on existing levels of expenditure and the processes used in its distribution, will inhibit the Commission in reaching its conclusions almost as much as the difficulty associated with developing needs based assessment models.
- 1.6. The Territory has concluded that it can best assist the Commission in this initial submission in two ways:
 - by commenting in detail on the terms of reference with a view to providing the Commission with some assistance in its interpretation of the terms of reference; and
 - by providing examples of service delivery to indigenous people in the Northern Territory, particularly where needs based funding methods are relevant or where they interface with Commonwealth funding methods or where Commonwealth funded agencies influence service delivery outcomes.
- 2.1 Many of the services provided in the Northern Territory and the associated policy development issues relate to services for indigenous people, particularly those who reside in remote areas.
- 2.2 As Table 1 shows, at the time of the 1996 census, over 28% of the total population in the Northern Territory were recorded as indigenous compared with 2.1% of the population nationally. Of the approximately 52 000 indigenous people living in the Territory, 80% live in remote areas where government services are difficult and costly to deliver.
- 2.3 This is a very different situation to the States and the ACT where, even if the total number of indigenous people is not insignificant, as a proportion of total population they represent a very small group.
- 2.4 In all of the other indigenous features shown in the table the Territory stands out from all other jurisdictions. It has the highest level of overcrowding; by far the highest proportion of hospital separations; the lowest median weekly income; and the highest proportion of population aged 15 and over with no qualification.
- 2.5 On any measure the level of disadvantage and associated need in the Northern Territory is greater than any other jurisdiction.
- 2.6 It is also relevant that in recent census counts the identification of Aboriginality has grown significantly, most recently in the 1996 Census. It is likely that the level of needs of this group would be less than those of traditional Aboriginal people in remote areas of the Territory.
- 2.7 The level of policy development effort devoted to indigenous people in the States, even having regard to their high needs relative to the rest of the population, is not great. This is in contrast to the situation in the Northern Territory where the provision of culturally sensitive and appropriate levels of government services to indigenous people in the Territory is an ongoing challenge.

- 2.8 In many areas particularly health, education and law and order services at least half of the client group consists of indigenous people. This, of course, is more pronounced in the remote areas of the Territory where in most instances indigenous people account for virtually the whole group for whom the particular service is provided.
- 2.9 There are specific indigenous policies and programs in the Northern Territory. However, indigenous people are such a high proportion of all services users, virtually all so-called mainstream services in the Northern Territory are designed in such a way that the needs of the indigenous population are taken into account.

TABLE 1

State and Territory Indigenous Population Characteristics

<i>Indigenous Populations</i>	NSW	Vic	Qld	WA
Indigenous Population (000)	109.9	22.6	104.8	56.2
Proportion of Total State Population (%)	1.8	0.5	3.1	3.2
Proportion of Total Indigenous Population (%)	28.5	5.9	27.2	14.5
<i>State and Territory Indigenous Population by RRMA Location:</i>				
Metropolitan Areas (%)*	46.1	53.4	31.5	32.0
Rural Areas (%)**	45.7	44.8	40.2	15.8
Remote Areas (%)***	8.2	1.8	28.4	52.2
<i>State and Territory Indigenous Housing Characteristics:</i>				
Overcrowded Households (%)	10.7	8.7	17.6	20.6
People in Dwellings with more than 10 People (%)	0.9	0.8	5.4	8.2
No. of Households Residing in Improvised Dwellings	60	3	306	198
<i>State and Territory Indigenous Health Indicators:</i>				
Proportion of Indigenous Low Birthweight Babies (%)	11.1	10.6	11.6	13.2
Indigenous Hospital Separations - 1996-97 (%)	2.0	0.4	3.8	32.5
<i>State and Territory Indigenous Income Status:</i>				
Indigenous Individual Median Weekly Income (\$)	228	249	227	211
Average No of Vehicles per Indigenous Dwelling	1.1	1.3	1.0	1.1
<i>Indigenous Education Attainment:</i>				
State Population Aged 15 and Over: Bachelor Degree (%)	1.7	2.7	1.4	1.3
State Population Aged 15 and Over: Skilled Vocational (%)	5.7	7.0	4.4	3.4
State Population Aged 15 and Over: Basic Vocational (%)	2.3	2.3	1.9	1.5
State Population Aged 15 and Over: No Qualification (%)	73.1	69.4	77.7	78.9

Sources ABS Catalogue No. 2034.0, Census of Population and Housing: Aboriginal and Torres Strait Islander People and ABS Catalogue No. 4704.0, The Hea
Islander People

*Includes Capital City and Other Metropolitan Areas RRMA Classifications.

** Includes Large Rural, Small Rural and Other Rural RRMA Classifications.

*** Includes Remote Centre and Other Remote RRMA Classifications.

2.10 The provision of all services is made more complicated in the Territory than in the States, even those with significant proportions of Aboriginal people in rural or remote areas, because of:

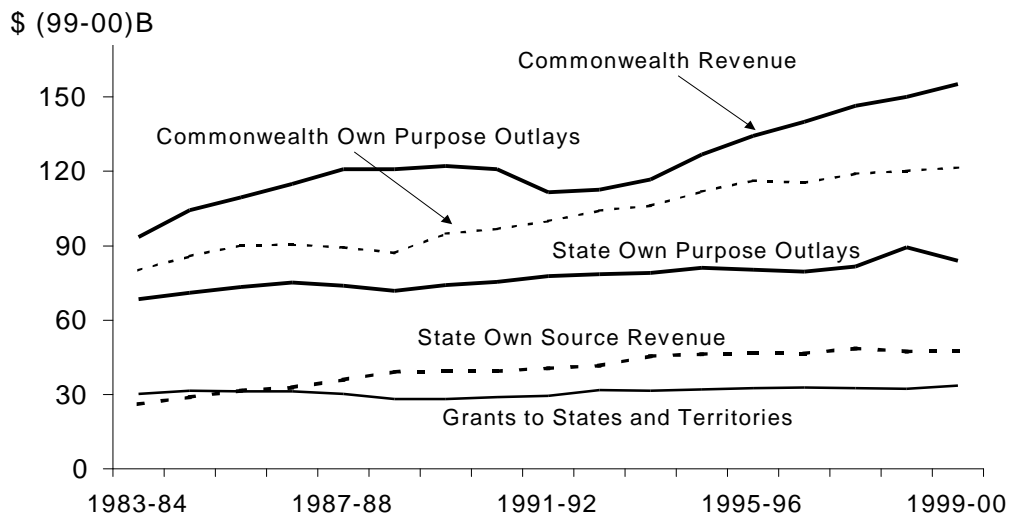
- ❑ land tenure issues notably those affected by the *Aboriginal Land Rights (Northern Territory) Act* more recently the *Native Title Act*; and
- ❑ the associated history of Commonwealth administration of the Northern Territory until 1978, followed by complex arrangements regarding responsibility for essential infrastructure and related service delivery, particularly in regard to established Aboriginal communities; and
- ❑ the much greater influence of the outstation or homeland centre movement on all aspects of service delivery in remote areas of the Territory.

These Northern Territory specific influences are explored throughout this submission.

2.11 However, an influence which affects all States and Territories not only in respect of services provided to indigenous people but affects all of the services they provide, is the limitation on the financial resources available to State Governments as a result of the allocation of federally raised financial resources.

2.12 As shown in the chart below, since 1983-84:

- ❑ revenue raised by the Commonwealth has increased by 66%
- ❑ Commonwealth own-purpose outlays have increased by 40%: but
- ❑ Grants to the States and Territories have increased by 11%



- 2.13 The chart shows that the growth in State own-purpose expenditure is significantly lower than in Commonwealth own-purpose outlays and has been financed by increased own-source revenue effort.
- 2.14 The financial restraint that States and Territories have had to adopt due to policy decisions taken at the national level has limited the capacity of States and Territories to expand the whole range of government services for which they are responsible. It is not unreasonable to suppose (and supported by evidence) that in such circumstances, the limited additional resources would be mostly directed towards those areas where public pressure regarding service levels is most vocal.
- 2.15 Further, it is also reasonable to conclude that the level of restraint on State and Territory services combined with the increase in the Commonwealth's own purpose outlays has contributed to a change in the mix between the services provided by different levels of government to indigenous people (and other services as well).
- 2.16 This inquiry presents an opportunity to examine level of resources provided directly and indirectly to indigenous people via Commonwealth sources; and to consider whether or not those resources are allocated in a way which is commensurate with the needs of the people the services are designed to meet.
- 3.1 The Terms of Reference for the Inquiry are fairly specific in most aspects. Paragraph 1 of the terms of reference requires the Commission to develop a method that can be used to determine needs:
- (i) between groups of indigenous Australians;
 - (ii) relative to one another;
 - (iii) in particular functional areas; and
 - (iv) which may be used to distribute existing funding in those particular areas.
- 3.2 As this inquiry is the first of its type and the level of data available in this area is largely unexplored, the Territory considers that one of the key benefits of the inquiry will be the compilation of a range of factual information. This will relate not only to relative needs between particular groups and for particular types of services but perhaps, more importantly, will provide detailed information on the level of financial assistance currently provided under indigenous specific and mainstream programs, and the manner in which those funds are currently distributed.
- 3.3 Each component of the terms of reference is addressed below.
- 3.4 The lack of definition of the funds and programs to be examined is unusual and is perhaps indicative of the paucity of information not only of the issues which should be included when considering distribution methods, but also of the funds which are currently being allocated to indigenous programs.
- 3.5 The Terms of Reference do not appear to require the Commission to provide recommendations regarding a redistribution of existing funding, except in indicative terms by applying the method developed. Comment on the absolute level of funding is not sought.

The Method

- 3.6 Paragraph 2 of the terms of reference sets out three requirements for the method which the Commission is to develop – these are discussed below.

A method based on readily available data sources

- 3.7 As stated above, in the Territory's view and having regard to the fact that there has not previously been an Inquiry of this type, the Commission's report will be of considerable value because of the data which will be brought together for the first time. The Territory considers that the data sources available should be separated into two parts:

- the financial data which should be the subject of this inquiry; and
- the non-financial data which could be used as the basis to develop a needs based assessment method.

Financial Data

3.8 The Commission has been asked to examine specifically the areas of housing and infrastructure, employment and training, health and education. Other areas may be examined. The Commission's report will be of considerable use to all parties to the Inquiry if it sets out, in as much detail as possible, the various programs which constitute funding for indigenous services in these areas. Specifically programs which are:

- directly to organisations which provide services only to indigenous clients;
- to lesser extent, directly through the Commonwealth's own service delivery outlets;
- indirectly through its mainstream services; and
- through a range of specific purpose payments provided to the States and Territories

3.9 If possible the program description should include:

- the Commonwealth organisation responsible for its distribution,
- the amounts involved,
- the purpose to which the funding is put; and
- the current distribution used, including any available description of the principles applied.

3.10 The Commonwealth and the States and Territories would need to assist the Commission in the collection of such data. However, in the Territory's view, unless this information is quite clearly and rigorously established it will be impossible for the Commission to adequately undertake its work and to provide realistic recommendations with regard to a method for its distribution.

Non Financial Data

3.11 With respect to the available non financial data sources which could be used for a needs based formula, it appears that the Commission will have little choice but to use comprehensive base data which is available nationally and has a similar level of coverage and reliability for all jurisdictions.

3.12 If this is not done then it will be extremely difficult to develop a needs based formula to apply between groups of indigenous people or by particular geographical areas within Australia, be they ATSIC regions or States and Territories. This suggests that a weighted population approach with the base data drawn largely from the Census. To the extent possible, influences which are generally accepted to be determinants of relative need such as income, employment, housing educational attainment and so on be identified as specific elements which could be weighted to contribute to an overall assessment of need in a particular area. Cost influences in meeting needs would also have to be taken into account.

3.13 Other data gathered from particular collections which do not have a national focus may be useful in determining how weights could be assigned to particular influences. Alternatively, the Commission could make use of specialised stratified sampling techniques to differentiate between sub-groups with special needs.

3.14 However, it is difficult to see how a needs based formula could start with anything but nationally based and determined data. Accordingly, the Commission's main data sources will be limited to those national data collections undertaken by the Australian Bureau of Statistics, notably the census and related collections, the Australian Institute of Health and Welfare, Housing Authorities and possibly some academic research.

- 3.15 The weights allocated to particular influences and in particular functional areas, will necessarily be developed through the exercise of judgement by the Commission. Much of the information on which the weighting will be based will be provided by participants to this review, and while it will have a quantitative basis, it will not be of the kind that lends itself to sophisticated modeling. However, it is expected that it will be generally sufficient for the Commission to come to a view that particular issues influence needs more than others and hence should be weighted accordingly.
- 3.16 While some of these weightings may be apparent from data provided by participants to the Inquiry, many will be formed by the Commission's visits to indigenous communities around Australia. The Commission may be encouraged by some participants to the Inquiry to limit itself in the application of judgement. However the lack of data will generally mean that the level of specific influences is more likely to be understated using this approach and so the Territory encourages the Commission to apply its judgements when determining weighting of particular influences to arrive at an assessment of relative need.

Distinguish between needs of Aboriginal people and Torres Strait Islanders

- 3.17 Paragraph 2(ii) of the terms of reference require consideration of the relative needs of Aboriginal people from those of people from the Torres Strait.
- 3.18 There are a number of Torres Strait islanders resident in the Territory, particularly in the Top End. While they are not numerous relative to Aboriginal people, there is no particular evidence which would indicate, *prima facie*, that their needs differ significantly from Aboriginal people from island or urban areas in the Territory. It is not clear if this is the case elsewhere and we will not provide any particular views about Torres Strait islanders living in other jurisdictions.
- 3.19 Of greater concern to the Territory is the relative needs between groups of Aboriginal people, particularly those resident in remote areas and who follow a largely traditional lifestyle.
- 3.20 Paragraphs 1 and 4 (i) of the terms of reference require the Commission to report of the relative needs of groups of indigenous Australians. This is considered by the Territory to mean that the Commission should consider whether there are particular groups of indigenous Australians, beyond the two groups of Aboriginal and Torres Strait Islander, who have different characteristics which result in varying levels of needs.
- 3.21 In the Territory's view it will be extremely important for the Commission to consider the specification of relevant sub-groups of indigenous populations in order to best determine needs between the various groups. As the Commission is aware the Territory has long argued for the identification of sub-groups of Aboriginal people where their need for government services varies considerably. This is not to say that there is any differentiation between the "Aboriginality" of these particular sub-groups but rather, as with other ethnic groups, where there is a greater level of disadvantage, then there will be a greater need for government services.
- 3.22 The Territory's experience is that the needs of Aboriginal people who are more traditionally orientated and who live in remote areas, will be greater than those people who are resident in urban areas and who have lifestyles which are more similar to non indigenous groups. We therefore argue strongly that the relative needs of these various sub-groups must be considered, and in the development of the needs based model, greater weights will need to be accorded to them.
- 3.23 Given the time available to the Commission it will be important to limit the number of sub groups that the Commission considers. The Territory would suggest that the two ways to be considered as a means

of grouping Aboriginal people, these are language proficiency and distance from a major service centre.

Language proficiency

- 3.24 Language proficiency can be associated with living in Aboriginal communities where the traditional orientation is high, the main language spoken is an Aboriginal language (often more than one) with English being either a second or a third language and where proficiency in English is limited. Quite clearly, language proficiency affects Aboriginal people's progress in education, employment and training and in their ability to access other government services.
- 3.25 There is also strong evidence that language ability and educational attainment affect health status.

Remoteness

- 3.26 Distance from a major service centre is the other key determinant in the level of services provided and the level of relative needs between particular groups. As for non indigenous populations, the level of government services generally declines in centres which are a greater distance from major service centres. This is due to the high costs associated with the delivery of services in remote areas and the diseconomies of scale which prevent a full range of services being provided.
- 3.27 The situation is compounded in indigenous communities where the economic base is more limited than non indigenous communities. In the Territory where most Aboriginal communities are located on Aboriginal land and access to those communities is restricted, the level of economic activity is considerably limited and is generally restricted to the public expenditures of government agencies or the Aboriginal community council itself.
- 3.28 Hence the needs of the community for government assistance are far greater than those for similar groups who are located in areas where the economic opportunities are greater.

Assessment of Sub-Groups

- 3.29 The Territory has identified 2 sub groups of Aboriginal people that, in our view, should receive particular attention in this Inquiry. This should be done by identifying their relative representation by State and Territory, and ATSIC region and developing appropriate weights to be applied in the needs based funding formula.

Comparison of relative needs by Geographic Region (ATSIC Regions and by State and Territories)

- 3.30 It is the Territory's understanding that ATSIC regions are contained within State and Territory boundaries. ATSIC boundaries have been modified over time and appear to be based on a combination of traditional indigenous groupings to the extent that can be achieved, and regional groupings. If the Commission uses census data as its base data for a needs based formula, then it will have the capacity to generate that data at the Collection District (CD) level which will allow aggregation either by ATSIC region or State and Territory as required.
- 3.31 In the Territory's view, it would be best to present the information on a State and Territory basis and for ATSIC regions within jurisdictions. While this Inquiry is concerned with Commonwealth funding much of that funding is directed via specific purpose payments to the States and Territories. A significant proportion of the rest of the Commonwealth funding is directed through ATSIC via ATSIC regional authorities. Distribution methods at the ATSIC regional level may differ between regions.

- 3.32 If the Commission's work is to be of most use, then it will need to address the differences in the current distribution of Commonwealth funds relative to the method that the Commission develops by reference to both ATSIC regions and to States and Territories.
- 3.33 While the terms of reference refer regularly to the issues which concern the distribution methods, there is no explicit definition of the funds which are the subject of this Inquiry. The description of the funds to be considered is described as:
- across government or government-type works and service;
 - provided or funded by the Commonwealth; or
 - by States and Territories through specific purpose payments.

What the Commission Should Take Into Account

- 3.34 Paragraph 3 sets out the various issues that the Commission should take into account in determining its needs based method.

Full range of Funding Sources

- 3.35 As outlined above, in the Territory's view one of the key products from this inquiry will be the detailed analysis of the full range of sources from which Commonwealth funds are provided for indigenous people whether they be allocated directly or indirectly by the Commonwealth.
- 3.36 Earlier in this submission we have proposed that the Commission undertakes special data collections in respect of the various expenditures which are relevant to this inquiry. We appreciate that it is extremely likely that such a process may have commenced although we have not been advised of any such action.
- 3.37 However, in order for the States and Territories to provide any useful information to the Commission on the effectiveness of the particular programs or to address the way in which these programs interface with those funded by States and Territories, information on the specific programs under consideration is required. Otherwise the comments by States and Territories will be heavily generalized and not of great use to the Commission.
- 3.38 It is therefore proposed that when this information is collected by the Commission, it should be released to all parties in the form of a draft paper. Specific information should be provided on the type of programs for which funding is allocated, the way in which the current distribution mechanisms work and the allocation by both State and Territory and ATSIC region.
- 3.39 Participants to the inquiry can then provide information to the Commission on those particular programs, such as:
- how they operate in their jurisdictions or areas of responsibility ;
 - the links between various programs where such links are influenced by or affect relative needs or the programs provided by others, particularly State and Territory organisations; and
 - interface issues between levels of government which can influence outcomes.

Methods currently used in the assessment of needs

- 3.40 While the Territory is aware of some of the current methods used in particular areas by the Commonwealth and ATSIC for the allocation of current funds, there does not appear to be an overriding principle used. There certainly does not appear to be a strong across the board emphasis on a needs based funding approach. It is fair to say however that this comment could also be applied, in general terms at least, to most specific purpose payments the States and Territories receive.

- 3.41 Housing is one area where the Territory is aware that a needs based distribution of funds applies. The allocation of Aboriginal housing funds distributed between jurisdictions under the Commonwealth State Housing Agreement and other related funding programs has been based on a assessment of relative overcrowding although the data used is now well out of date. Even the actual distribution varies from the assessment of needs with the Territory's share being less than its assessed level of relative need. This is discussed in more detail later.
- 3.42 In the Northern Territory, distributions are generally done at two levels:
- first, to ensure access to an appropriate level of services – in h is regard generally a greater level of services would be provided to a group of indigenous people than non-indigenous people having regard to their relative needs, and hence greater costs are incurred; and
 - second, additional resources are provided to ensure an adequa e minimum level of services are provided.
- 3.43 This is sometimes described as a minimum service delivery model which is modified to the extent possible by an adjustment for local needs in specific areas. This approach has been used for some time in the operational funds provided to local government communities in remote areas where a minimum level of funding based on population modified by particular needs based factors was used. However, the Territory Cabinet has recently approved to a move to a full needs based funding distribution method. This will be developed and implemented over the next 2 years.
- 3.44 Another example is in Territory Health Services where a minimum service delivery model has been developed in consultation with the World Health Organisation which attempts to specify the number of medical nursing and indigenous health staff that should be available to particular communities of varying sizes. Those requirements are then modified based on judgement and data availability with respect to specific services such as child health, domestic violence, substance abuse or other issues.
- 3.45 The Territory's approach could generally be described as a modified per capita basis where both cost and needs are taken into account. It approximates a more sophisticated population weighted needs based approach where specific populations components are such as age, gender or specific factors which influence the level of disadvantage (eg the ABS SEIFA indices) are weighted in a way that is considered to be commensurate with need.
- 3.46 A weighted population based approach is generally not considered feasible within the Northern Territory where there are very small groups of indigenous people who have little access to services other than those provided by the Territory Government. A weighted population needs based method would give rise to an element of false precision if used widely within the Territory.

- 3.47 It is also unlikely that relevant data to support such a method would be available. For example, while it is likely that mortality data would be available for small area populations, it is highly unlikely that morbidity data which is a better indicator of the level of health services required would be available except in respect of the hospital admissions of various groups.
- 3.48 However, it is not unreasonable for a weighted population approach to be applied by the Commission to assess needs between jurisdictions or ATSI regions.
- 3.49 More details of the various methods used in the Territory are provided in the second part of this submission which deals with functional areas.

Initial investment of resources

- 3.50 If it is concluded by the Commission that the funding distribution does not accord with the needs distribution and a redistribution is required, then in order to effectively phase in a needs based distribution, adequate initial start up funding will be required to those areas where services are to be expanded. This would include both capital funding requirements and recurrent funding of a planning and development nature to ensure that the services being put in place are effective and will meet the needs that have been identified by the Commission.

Existing strategies to provide works and develop services

- 3.51 The Territory generally uses the same strategies in determining the requirement for services for indigenous people and communities as it does for other groups of Territorians. Agencies with responsibility for particular functional areas provide funding submissions to Cabinet in the usual way. There is usually a policy in place to determine a standard of service having regard to population size or demand and if the criteria are met then the service is provided.

Interaction between Indigenous Funding Inquiry and State Relativities Inquiries

- 3.52 In its consideration of State Relativities the Commission has, to the extent that it has been able, taken into account Commonwealth own purpose outlays particularly those with respect to indigenous people, and also the distribution of specific purpose payments.
- 3.53 As the Commission is aware, the Territory has always supported, in principle, this approach (the inclusion approach) with respect to specific purpose payments in the achievement of equalization in the State relativities process. However, there has been two exceptions to this general support:
- in respect of the treatment by inclusion of Commonwealth own purpose outlays; and
 - the way in which the equalization methods are developed for specific purpose payments treated by inclusion.
- 3.54 The Commission had, until the 1999 Review, made no distinction in the treatment of expenditure related to specific purpose payments and Commonwealth own purpose outlays on the basis that each type of funding contributed to overall State needs being met.
- 3.55 The key difference is of course that the State has the capacity to accept specific purpose payments and also to influence significantly how they are spent whereas it has no choice with respect to in Commonwealth own purpose outlays. Neither does it have influence over the nature or location of the expenditure. Indeed, there are many instances in the Territory where Commonwealth own purpose outlays have led to unsatisfactory outcomes, duplication and future obligations for the Territory Government.

Own Purpose Outlays

3.56 In the 1999 Review, the Commission accepted that there may be less advantage in Commonwealth own purpose outlays being spent in the Territory compared with other payments and thus discounted these payments while still treating them by inclusion. This is certainly an improved method. However in the Territory's view, there are many examples where the disadvantage caused by uncoordinated intervention by Commonwealth agencies has not resulted in a satisfactory outcome and required considerable efforts of the Territory's part to rectify the situation. Examples are provided later in this submission.

Specific Purpose Payments

3.57 Specific purpose payments are made by the Commonwealth in virtually all functional areas, not only indigenous services. However, the clear difference between indigenous services and other specific purpose payments is that the latter are intended to influence State policies and standards of service at the margin. It is appropriate and consistent with equalization that they be treated by inclusion in the State relativities process.

3.58 In most cases the effect of the special purpose payments will quickly be channeled through adjustments in relevant expenditure standards and all jurisdictions will be equalized to the new standard. Hence the treatment by inclusion is considered appropriate and the Territory has no objection to the Commission's treatment methods.

3.59 However, the situation with respect to services to indigenous people is different. In these cases, the standards are not considered to be adequate and the funding is often provided to make a substantial difference in the standard rather than a difference at the margin. Due to the proportion of the standard which is generally associated with indigenous services, a substantial increase in funding due to the provision of a specific purpose payment will have minimal effect on the standard. This is particularly so for the Territory which because of its small population size, has virtually no influence on the standard in any event.

3.60 The Territory has also been concerned with the development of disability factors. If the influence of the specific purpose payments is not properly reflected in disability factors, then the treatment by inclusion will actually result in a net loss of funds.

3.61 This occurs because the Territory's assessed needs are reduced by the additional funding treated by inclusion but the needs assessment has not been adjusted to reflect the additional needs the funding is designed to meet.

Effect on overall funding levels

3.62 In both of these cases because of the relatively high per capita level of indigenous funding, the treatment by inclusion serves to reduce the Territory's general purpose funding assessment and hence over-rides any increased financial capacity to provide expanded indigenous services.

3.63 The treatment by inclusion for grants and own purpose outlays for indigenous purposes simply leads to a redistribution of funds away from those jurisdictions in receipt of the additional funds for indigenous purposes where they have been provided specifically to raise standards.

3.64 While this is the case in respect of all payments treated by inclusion, the Territory argues that in this area there is a good argument for the Commission's practices to be modified in a way which allows for the explicit increase in standards to be achieved.

3.65 Service to particular groups of Aboriginal people are different to other services because outcomes for some Aboriginal people are so far below the Australian average. A different treatment is justified until outcomes are the same, or at least similar to, the Australian average. This is likely to be the case with those urban Aboriginal people where outcomes are not dissimilar to the Australian average.

- 3.66 If this is not done because of the interaction between the State relativities process, any change in the distribution of Commonwealth expenditure which may arise as a result this Inquiry's recommendations will be ineffectual.
- 3.67 It could be argued that the way to overcome such an undesirable outcome is simply to quarantine Commonwealth payments for indigenous purposes from the States relativities processes. However, in the Territory's view this would be totally unsatisfactory. It would:
- further distinguish between services to indigenous Australians from other Australians;
 - provide real assessment difficulties in determining interface issues; and
 - would lead to perverse incentives in the State relativities process if there was a view that additional States expenditure would not be recognized appropriately as needs may have already been assessed as a result of this Inquiry.
- 3.68 If however, the Commission is of the view that the impact on the States relativities process cannot be avoided then it would be appropriate for the Commission to restrict its considerations in this Inquiry to those areas which are not taken into account in the States relativities process.

Application of the Method

- 3.69 Paragraph 4 discusses the ways in which the Commission should apply its method.

Relative needs of Groups of Indigenous Australians

- 3.70 The Commission has been asked to include in its report the relative needs of each sub group that it has identified in each of the relevant functional areas. This is a complex task. For the Commission to have any realistic means of determining, in the limited time available, relative needs in four areas across all jurisdictions and ATSI regions, then it will need to adopt a fairly simple and consistent approach to each of the four areas.
- 3.71 It appears to be necessary to determine geographic groupings as well as groups where relative needs are likely to vary. The Territory has previously suggested that these be ATSI regions, which would then be aggregated by State or Territory.
- 3.72 It would then be necessary to determine sub-groups of indigenous people within each of those geographic areas. The Territory has suggested 2 particular sub-groups, Aboriginal people who have a traditional orientation as measured by their language competence, and those in resident remote areas. We have suggested that the needs of these sub-groups be determined by appropriate additional weightings rather than for them to be separately identified as is the case with Aboriginal people from Torres Strait Islanders.
- 3.73 The next step would appear to be to identify simple, readily available indicators of needs within each of the main four categories that the Commission has been asked to consider and to determine appropriate weights to each of these indicators. The Territory recommends that the Commission restrict its consideration to these 4 areas. They represent the majority of Commonwealth funding and the task before the Commission is difficult enough in the time available.
- 3.74 The Territory has not, at this stage attempted to define ways in which needs could be considered in each of the functional areas specified. Rather, in each of the detailed functional discussions which follow, there is a description of needs assessment and funding allocations provided. Details are also provided on successful programs, interface issues with the Commonwealth, and difficulties with current funding arrangements.

4. ISSUES TO BE CONSIDERED DURING THE INQUIRY

- 4.1 In addition to seeking comments on the Terms of Reference, the Commission has outlined a number of issues on which it will be seeking the views of participants to the Inquiry. Some of the issues have been addressed in the preceding sections dealing with the Terms of Reference.

Should other functions be considered

- 4.2 In the Territory's view, the Commission should restrict its considerations to the four areas specified in the Terms of Reference. These are the areas where the bulk of the Commonwealth's expenditure is allocated.
- 4.3 Further, the task before the Commission is sufficiently complex without extending the task to other areas where Commonwealth expenditure is limited.
- 4.4 It is agreed that there are many other functional areas where indigenous services could be examined. However, a more appropriate way to achieve this would be a more thorough examination of the needs in these areas in the State relativities process.

Should needs be at an aggregate functional level or at a narrow activity level

- 4.5 It is almost impossible to address this issue without first examining the details of the particular programs which are the subject of the Commission's Inquiry. While it would be reasonable to assume that overall needs in a particular functional area would be similar to a sub-program or discrete activity in that same area, it is not possible to be definitive without first considering the programs involved.
- 4.6 It would seem to be an impossible task for the Commission to provide a distribution method for each individual activity. Nor does that appear expected in for the Terms of Reference which are directed more towards overall needs in the main functional areas rather than on a sub-program basis.
- 4.7 It may be that a compromise solution is required where an aggregate level of need for the function is determined but particular regard is paid to the major funding programs within that functional area.

Interaction between functions

- 4.8 There is clearly a link between each of the 4 functional areas the Commission has been asked to examine. While needs should be assessed separately, it would not be unreasonable that in determining disability weights for a particular area that the level of disadvantage in another area would not be an influence.
- 4.9 It is accepted that the level of housing affects health status and educational achievement. The reverse is also true. If the assessment of need is done at a very high level where health, housing, education, and so on are both influences to be taken into account as well as functional areas to be examined, then the interactions should be properly accounted for.

Relative needs and standards

- 4.10 The concept of a standard is difficult to determine in this review as the Commission is asked not to examine absolute needs, unmet needs or needs relative to the financial capacity provided.
- 4.11 It seems that the most likely way that needs can be assessed is to develop a form of ranking where one group or region is assessed to have greater or less needs than others. The relative ranking will depend on the emphasis a particular influence is accorded and the extent to which it is considered to effect the indigenous population in any particular region.

- 4.12 It will also be important to take into account cost factors, particularly scale related dispersion costs in determining the level of ranking. Judgement will also need to be exercised by the Commission in determining the factors to be included to assess the relative ranking.
- 4.13 It is difficult to see that a different approach can be taken for each of the functional areas. However, the influences taken into account would vary between functions and may produce differential overall needs by function for a region.
- 4.14 There may be some areas where the Commission is required to make a decision about the level of service which should be adopted. For example, at what level of population should certain services be applied. This is particularly important in respect of outstation services where in some locations they are for short term stays rather than for permanent occupation.
- 4.15 In such cases it would be appropriate for the Commission to ask the Commonwealth to state its view about the standard of services to be adopted. If the Commonwealth does not provide a view, then the Commission should apply what is done.

Mix of services between levels of government

- 4.16 This issue has been dealt with in the discussion of the various functional areas later in this submission as far as existing services is concerned.
- 4.17 It would not be reasonable for the Commission to presume that future levels of service provision would be different from those that exist currently.

What Commonwealth programs should be included

- 4.18 As previously stated, the Territory's view is that the Commission should obtain a full listing of Commonwealth expenditure programs, including mainstream programs, which could come within the purview of this Inquiry.

Capital needs

- 4.19 While the Territory agreed that this is a major area of need, if the Commonwealth is not already involved in providing capital needs in a particular area, it is difficult to see how the Commonwealth will be able to assess needs fully. Information on existing programs would be of assistance.

Definition of needs

- 4.20 To address briefly the points raised by the Commission:
- ❑ Distinctions should be made between infrastructure and recurrent needs by function.
 - ❑ If levels of government other than the Commonwealth are contributing to needs to a varying degree, the needs assessment for a particular jurisdiction should not diminish by this additional effort. To do so would provide the worst incentives possible.
 - ❑ The way in which the needs based distribution should be applied can not really be determined prior to the method being developed. However, equity would appear to require that a proportion of needs be met rather than an approach which applied significant resources to the greatest area of need but resulted in none left for any other areas. A preferable approach would be to achieve an equitable level of unmet need.
 - ❑ Costs must be taken into account. Efficiency issues need to be carefully considered particularly when balanced against community development issues. These are areas where the Commission will need to apply its judgement.

5. HEALTH SERVICES

Assessment of needs

- 5.1 Health services in the Territory are provided by the Territory Government, to a greater extent than is the case for other State governments. In remote areas of the Territory there are almost no private services and hence the call by Territorians, on the Commonwealth's medicare benefits and pharmaceutical benefit schemes are low by national standards. The Territory Government's dominance assessments from primary to tertiary health services has tended to result in a greater focus on needs and preventative approaches to health care.
- 5.2 Need in the health context can be viewed in many different ways. Definitions of need also vary depending upon the different perception, interpretation and rules that are in play. A universally accepted construct of what constitutes needs in health services does not exist.
- 5.3 In summary, the following data can be utilised in assessment of health care needs:
- Mortality data;
 - Hospital morbidity data;
 - Community service utilisation data;
 - Clinical data; (eg rates of Sexually Transmitted Diseases, Hypertension, Diabetes, Breast Cancer, etc);
 - Product and cost data – Casemix. Its use in the Northern Territory by Territory Health Services is described below.

In the Territory a range of need assessment techniques/instruments are utilised.

Population based resource allocation formulae.

- 5.4 Many jurisdictions use a weighted population-based formulae to allocate resources on the bases of health status, socio-economic factors and distance. THS has developed a base formula however its use is limited given the low population numbers in the Territory. (copies can be provided).
- 5.5 It is generally accepted that such a formula be used to distribute resources between communities of more than 250,000 residents. Given that the Northern Territory population is less than that, and there is differential access to significant Commonwealth funded programs, a formula approach to resource allocation is not seen to be adequate for services within the Territory. However there is a valid role for such formulae in estimating what should be a fair share of resources and in using this information for benchmarking purposes.

Population screening

- 5.6 Population screening is a common method of health care needs assessment in the Northern Territory. Examples of where this approach is utilised include:
- Breast Cancer and Cervical Screening – clinic based;
 - Child health screening – school based;
 - Dental screening – school based; and
 - Screening for diabetes/STDs - clinic based.

Analysis of morbidity and utilisation data

- 5.7 Analysis of utilisation data is more a measure of demand for services than a measure of need. However in the absence of better alternatives it is widely used as a proxy for health care need.

- 5.8 There is a wide divergence between the hospital and community health sectors in respect to the availability of morbidity and service utilisation data. Casemix provides access to highly detailed data about hospital morbidity and utilisation patterns in the Northern Territory and the way in which they differ from the rest of Australia. As Diagnostic Related Groups are individually priced, casemix is also a good source of information about the cost of providing hospital services in the Northern Territory and in Australia. It provides a clear picture of actual utilisation of Territory hospital services and is used for resource allocation purposes within the Territory Health Services hospital budgeting model.
- 5.9 Community health morbidity and service utilisation data is not as well developed. However a new Primary Health Care Information System is under development in the Territory and the process of progressively introducing this to Territory Health Services community health services is commencing with the Coordinated Care trial services in two locations in the Territory (discussed later). As this new information system becomes more widely available it will provide improved access to information about community health service utilisation patterns across the Northern Territory and will be available for use in resource allocation decision making in relation to community health services.

Analysis of mortality data

- 5.10 The use of mortality is long recognised as a means of determining, at the highest level, health status between regions or groups. At an aggregate level and in the absence of other data, it is a very good proxy for needs.
- 5.11 However, while information on reasons for death can provide information of the health status of a community relative to other communities, it provides no information on quality of life issues such as level of disability.
- 5.12 A number of quality of life measures have been developed and linked to length of life measures to give a more realistic view of the burden of illness and thus the need for health care. Two such measures are the QALY, Quality Adjusted Life Year, and the DALY, Disability Adjusted Life Year. Little work has been done in the Territory on the application of these measures. However, the initial work on modelling the impact of investments over time to address issues of chronic disease did use the DALY as a measure of social gain. It seems unlikely that such measures would be useful in their current state, they may be of use in future as they are developed further.

“Local Needs Assessment” and “Minimum Service Delivery Model” of services to meet basic need:

- 5.13 Where services are provided to small populations it is generally accepted that access to basic services of a certain quality should be used as a base resource allocation measure. Such models can then be adjusted for need for specific health care interventions ie one community may have a higher need to address domestic violence issues and another child health issues.
- 5.14 Territory Health Services has developed a minimum service delivery model in consultation with the World Health Organisation. A number of studies have been undertaken of the last few years to determine the cost of providing such services in remote communities.

Territory Health Services - Health and Wellbeing Framework:

- 5.15 Based on initial work undertaken in the United Kingdom, Territory Health Services is currently developing information frameworks that link measures of need to related service requirements and use, and to measures of outcomes. Both survey and utilisation data are used to populate the model.
- 5.16 Future reports on the health and wellbeing of Territorians will address:
- Socio-economic characteristics;
 - Identification of areas of concern (chronic disease);
 - Evidence based relevant indicators;

- A summary framework on health care need and usage.
- 5.17 A conceptual model of chronic illness in Aboriginal communities has been developed. A model has also been developed for Sexually Transmitted Diseases.
- 5.18 Work is under way to develop other models for Disability, Aged Care and Children at Risk.

Specific program examples of needs assessment methods currently in place

Child care places

- 5.19 Assessment methods for priority allocation of child care funds for indigenous services have been based largely on the Commonwealth-designed Child Care Planning system. This draws in the first instance on normative measures of child care demand, such as children aged 0-4 and 5-12 years with parents in the workforce or training. Measures of work-related child care demand use Australian Bureau of Statistics census data and labour force participation rates.
- 5.20 This data is supplemented with measures of “felt need” ie. qualitative information obtained through consultation. Service viability indicators are also used including such indicators as:
 - The presence of community infrastructure and community development plans;
 - Sponsor capacity and interest;
 - Other services available for children.

Supported Accommodation Assistance Program

- 5.21 Current SAAP funding is distributed on a historical basis ie against submissions from non government organisations. From 2000 there will be the opportunity to use data from the SAAP National Data Collection managed by the Australian Institute of Health and Welfare to govern resource allocation. This data collection includes an estimate of unmet demand (ie turn away) that is of some use.
- 5.22 The SAAP research program provides qualitative and quantitative information on needs. The findings generally direct broad strategy but also identify specific opportunities to purchase services.
- 5.23 There is no specific measure of relative need, however the data does indicate differential access for indigenous people to the program. Compared to national figures, indigenous people are significantly under represented in the program in the Northern Territory:
 - Nationally indigenous people comprise 2% of the population and 13% of the SAAP client group. This represents a 1:6 utilisation ratio;
 - In the Northern Territory indigenous people comprise 28% of the population and 43% of the SAAP client group. This represents a 1:1.5 utilisation ratio.
- 5.24 This is in part reflective of per capita funding, as opposed to needs-based funding and the fact that services are located in the major centres. If the ratio was for urban based indigenous population the take up rate would approach the national average.

The process involved in the distribution of funds

Hospitals

- 5.25 Hospital funding comprises the largest single expenditure item in the Territory Health Services budget.
- 5.26 In 1995 Territory Health Services adopted an output based funding model for Territory hospitals, which was duly named the Hospital Funding Model. The hospital funding model is a budgeting tool used to determine the level of funding required for hospitals in line with the mix and level of anticipated patient activity.

- 5.27 The hospital funding model uses national standards and weights, and Northern Territory benchmark prices and activity levels to project the historical budget over budgeted performance. Within the model, adjustments are made to compensate for the Territory's unique situation including:
- the high proportion of indigenous population;
 - the geographic dispersion of a small population;
 - the high cost of providing core services to a small population;
 - reliance upon interstate transfers for super-speciality services;
 - the overall higher costs due to the remoteness of Territory facilities;
 - hospital provision of non-core hospital functions; and
 - small hospitals inability to avail themselves of economies of scale available at larger hospitals.
- 5.28 Adjustments for these factors allow the cost of providing acute care services to be better determined and allows national comparisons to be made realistically.

Other specific program examples

Child Care

- 5.29 Territory Health Services and the Commonwealth both provide recurrent funding for child care to a level agreed between them, and according to agency accountability requirements.
- 5.30 Territory Health Services manages any capital development projects and the Commonwealth provides a funding contribution to those projects.
- 5.31 All funding is expended through non government organisations.

Supported Accommodation Assistance Program

- 5.32 Funding is distributed against priorities negotiated with the Commonwealth through a bilateral agreement. All funding is expended through non government organisations.

Joint Territory Health Services/Commonwealth Funding Agreement

- 5.33 There are numerous other Territory Health Services programs that are funded under a range of Commonwealth/ Territory agreements. Examples of such agreements include the Public Health Outcome Funding Agreement under which a variety of public health programs receive Commonwealth funding; and the Commonwealth/Territory Disability Agreement under which Commonwealth funding is provided for the provision of disability services in the Northern Territory.

Differentiation between Commonwealth and Territory funding

Hospitals

- 5.34 Commonwealth funding for hospitals is provided under the Australian Health Care Agreement. This is a five year funding agreement that is negotiated between all States/Territories and the Commonwealth and then signed as a bilateral agreement.
- 5.35 The Commonwealth currently contributes \$60 million towards the cost of running Northern Territory hospitals. This represents around 40% of total recurrent hospital costs, with the remainder funded by the Northern Territory Government and hospital revenue.
- 5.36 Hospital budgets do not differentiate between Commonwealth and Territory funding sources. However the Territory has a range of performance reporting obligations under the Health Care Agreement, that require it to provide information to the Commonwealth about a range of hospital outputs and activity levels.
- 5.37 Utilisation of hospital services by indigenous populations in the Northern Territory is disproportionate to their population size ie indigenous people comprise around 28% of the population and average more

than half the hospital separations across the whole of the Territory. In the smaller communities of Tennant Creek, Gove and Katherine the utilisation of hospital separations by indigenous people can be as high as 80%.

Primary health care funding

- 5.38 Due to the limited availability of doctors and the widely dispersed remote population, the Northern Territory has had a long standing shortfall in funding for primary health care services through Medicare. The Territory has typically received less than half the national average claiming levels under the Medicare Benefits Schedule (MBS). This is calculated to result in an MBS funding shortfall for the Territory of around \$30 million per annum and requires the Territory Government to fund primary medical care services that should be funded under the Commonwealth's Medicare program.
- 5.39 The Territory has also historically suffered a major shortfall in Commonwealth funding under the Pharmaceutical Benefits Scheme (PBS). The Territory's average claiming levels are around one third national claiming levels. It is in the remote areas that access to PBS is most limited. This leads to dependency of the remote indigenous populations upon pharmaceutical services provided by THS remote health clinics which are funded by the Territory Government.
- 5.40 Territory Health Services has an established network of around 70 remote health clinics distributed across the Northern Territory. These clinics are mostly staffed by registered nurses and Aboriginal health workers with periodic visits by District Medical Officers.
- 5.41 The Commonwealth contributes towards the cost of providing District Medical Officers services through the provision of a Health Program Grant in the vicinity of \$1 million. However the major cost of remote health service provision are met from the Northern Territory Government's own resources.
- 5.42 The Commonwealth also directly funds twelve independent Aboriginal Medical Services. About half of these are situated in the Territory's major towns and the others are in remote areas. Territory Health Services provides limited funding and services for some of these Aboriginal Medical Services, but they are largely dependent upon the Commonwealth for their resources.
- 5.43 Two Coordinated Care Trials are jointly funded by the Commonwealth and Territory Health Services; one at Katherine West and the other on the Tiwi Islands. These Coordinated Care Trials are managed by independent Aboriginal Health Boards who are funded through the pooling of the existing Territory Health Services funding for those areas and a cashing out of entitlements under the Commonwealth Medicare Benefits Schedule and the Pharmaceutical Benefits Scheme.
- 5.44 The Health Boards are in a position to make independent judgements about the services provided with the pooled funding they receive. These judgements are made by the Boards based upon their assessment of priority health care needs and the proportional allocation of funds at their disposal.

New Primary Health Care funding programs

- 5.45 There are two new primary health care funding programs that have the potential to eventually resolve the Territory's shortfall in PBS and MBS funding.

Section 100 Arrangements

- 5.46 Under Section 100 of the National Health Act the Commonwealth is soon to commence funding the provision of PBS listed pharmaceuticals in remote Aboriginal communities. These new arrangements will remove the patient co-payment requirement that applies under PBS and will result in PBS listed pharmaceuticals being supplied free of charge through eligible remote health services to Aboriginal populations.
- 5.47 These arrangements are expected to commence operation in May this year and should largely resolve the Territory's historically poor access to PBS funding. It is a requirement of the funding that any THS savings are retained within remote Aboriginal health service provision. Hence the Territory's discretion in this area has been restricted.

Primary Access Program

- 5.48 In the 1999 Commonwealth Budget a new Primary Health Care Access Program was announced. This provides for an infusion of new Commonwealth funding for Remote Aboriginal Health Services in States and Territories that have completed remote Aboriginal health service planning studies. Although it is clear that the funding actually provided will be dependent upon Federal Budget allocations to the program, the funding formula under the program allows for total Commonwealth health care funding in remote areas to increase to an upper limit of four times national average MBS claiming levels.
- 5.49 Pooled Territory Health Services and Commonwealth funding is also proposed under this program.
- 5.50 Implementation of this new program is designed to facilitate the establishment of independent Aboriginal Health Boards within a zone health service network, who will have the capacity to manage their own health services.
- 5.51 As the new resources required for implementation of this program are dependent upon Commonwealth Budget allocations to the program, it is expected to take 8 to 10 years to achieve its implementation across the whole of the Northern Territory. Until that is achieved the Territory's shortfall in MBS funding will continue unless other means can be found to increase access to MBS claiming.
- 5.52 A significant recent step taken by the Commonwealth resulted in the introduction of some new Medicare items (eg for patient care plans) that have the potential to make MBS claiming by Territory Health Services District Medical Officers more financially viable. In concert with this the Health Insurance Commission is taking steps to streamline remote area population enrolments for Medicare purposes. In response to these initiatives Territory Health Services is currently reviewing the funding of District Medical Officers services with a view to introducing MBS claiming.
- 5.53 Despite the potential improvements in access to Medicare funding for remote Aboriginal populations there will continue to be barriers associated with the inability to attract medical practitioners to work in remote communities. Therefore if this access problem is to be overcome it will require innovative solutions to medical service provision and greater flexibility in eligibility to claim Medicare funding. To this end, options such as telemedicine and nurse practitioners are being explored by Territory Health Services as a means of supplementing the limited number of doctors that can be recruited to work in remote communities.

Child Care

- 5.54 Commonwealth objectives in funding child care services have particularly focused on supporting workforce participation. While the NT shares this objective, there is also an intent to support families with child care responsibilities, and to promote optimal child development.
- 5.55 Under National Child Care Strategies 1985-88, 1989-91 and 1992-96 both levels of government provided capital and recurrent funding:
- ❑ Recurrent funding is based on a formula provided for approved places. Block funding of Childcare assistance (fee subsidy) is provided for innovative indigenous services.
 - ❑ Commonwealth capital funding is based on a per place allocation, with the Northern Territory funding the balance (about 70%) for approved scope of works. The Northern Territory also provides recurrent funding on an approved place basis.

Supported Accommodation Assistance Program

- 5.56 Under this program, Special Purpose Payments funding is matched approximately 35:65 (Territory : Commonwealth). The Territory and the Commonwealth can contribute additional resources either through the program by mutual agreement or in parallel to the program.

Examples of successful projects
Primary Health Care

- 5.57 The Coordinated Care Trials have demonstrated some of the benefits of joint Commonwealth/ Territory health care funding and the fostering of community capacity to independently manage health services through community controlled Health Boards.
- 5.58 If the new Primary Health Care Access Program can be resourced sufficiently by the Commonwealth to fully implement it across the Northern Territory the benefits of joint funding and the development of community controlled health services will be felt across the whole of the Territory. At this stage however, the most optimistic estimates of time frames for this suggest that it will be at least 8 to 10 years before this is achieved.
- 5.59 Although the Section 100 PBS pharmacy funding has not yet commenced it is expected to provide access to PBS funded pharmaceuticals for remote Aboriginal populations that were previously denied access due to the PBS administrative requirements and the limited access to remote area doctors and pharmacists.

Aged Care

- 5.60 The Commonwealth Department of Health & Aged Care, through the Aged Care Assessment Officials Group, have agreed in principle to fund two key projects which will have a focus on indigenous health assessment.
- 5.61 Funding has been approved to develop a joint HACC/ACAT assessment model for aged and disabled people seeking either residential or community care options.
- 5.62 In most localities consumers have to undergo two separate assessments. This proposal will develop a "one stop" shop assessment model which will inform and involve all providers from residential and community care, discharge planners, General Practitioners, allied health professionals, Aboriginal Medical Services and clinics.
- 5.63 A proposal has been endorsed by Aged care Officials to analyse Aged Care Assessment Data for indigenous people in remote/rural Northern Territory, Queensland and Western Australia. THS will sponsor the project. It is of relevance that in the period January to December 1998, out of a total of 360 clients assessed in Katherine 292 clients or 81% were indigenous.
- 5.64 The project is expected to identify the following :
- the unique characteristics regarding referral and assessment of indigenous people;
 - provide a detailed overview of the unique social-demographic characteristics to be considered when analysing Aboriginal Aged Care Assessment Team data, particularly when comparing trends to mainstream data;
 - develop a framework for future analysis of indigenous client data that can be utilised in the compilation of the National Minimum Data Sets reports;
 - identify commonalities and differences across regions / jurisdictions with respect to assessments and referral outcomes for indigenous clients;
 - document characteristics and issues, which impact on data collection processes for indigenous clients, particularly in rural and remote areas;
 - develop benchmarks for analysing Aged Care Assessment Team data for consideration by Aged Care Officials; and
 - inform government of significant trends in indigenous assessment.
- 5.65 Both projects will identify cost savings and the second project will possibly identify consistent data that will assist health professionals in the future delivery of services. This project might also identify cross border linkages and will almost certainly present an argument for additional allied health professional resources on rural/remote areas.

Child Care

- 5.66 While outside Specific Purpose Payments agreements, a recent children's services initiative involves a proposal for Territory Health Services to manage the capital works component of an innovative indigenous service development using 100% Commonwealth funding.
- 5.67 Territory Health Services will become a provider of Commonwealth-funded children's services program support services such as in-service training and advice, quality improvement, accreditation support, and management support.
- 5.68 Territory Health Services and the Commonwealth Department of Family & Community Services have for some time provided funding support for early childhood care and development services in indigenous communities, some of which have involved purpose-built facilities. More commonly, funding has aimed to add value to existing services such as those provided through women's centres (now no longer funded by the Commonwealth), and as a strategy to support women's participation in training and the workforce.
- 5.69 In March 1999 a CEO-level Agreement was reached on a Framework for cooperation in the provision of early childhood and outside school hours care services. This framework currently guides six joint projects which broadly aim to support children and families, and improve education outcomes. One area under the Framework is the development of remote area indigenous early childhood services.
- 5.70 More recently, and in response to the "Learning Lessons" review of indigenous education, collaboration aims to result in a joint proposal for the Department of Education, Training and Youth Affairs and Territory funding to support early childhood service development in a broader number of communities, within a more clearly defined policy and service delivery framework. This proposal is still in the developmental stage.

Aboriginal Hearing Program

- 5.71 The Aboriginal Hearing Program does not screen or medically treat children with ear disease. It trains and teaches individuals, Aboriginal Health Workers, teachers and communities to medically and educationally manage childhood ear disease thereby developing community capacity to address this issue. Summary details are as follows:
- ❑ It is a joint Territory Health Services /Northern Territory Department of Education Program addressing ear disease, hearing loss and the educational implications.
 - ❑ Its broad objectives are to reduce the incidence of ear disease, improve language and communication development and improve literacy and numeracy skills.
 - ❑ The Program's strategic plan is to provide awareness, education and training to develop individual and community capacity to manage medically and educationally ear disease, conductive hearing loss and educational implications.
 - ❑ It has the potential to improve school attendance and retention rates and consequently improve indigenous children's participation in education through ongoing professional development education and training for communities, educators and Aboriginal Health Workers.
 - ❑ The past years have established the program as a model of best practice and a recognised leader in this field, both within the Territory and nationally.
 - ❑ It is an excellent example of a jointly funded inter-sectoral partnership that is making a significant contribution to improvements in health and education.

Shortcomings in current funding arrangements

- 5.72 The major shortcomings in current funding arrangements for the Northern Territory relate to the poor access to Medicare Benefits Schedule and pharmaceutical benefits scheme funding. The details of these two funding issues were outlined above.

- 5.73 Current expectations are that implementation of the new S100 pharmaceutical benefits scheme funding arrangements should go a long way towards resolving the pharmaceutical benefits scheme funding shortfall in the Territory.
- 5.74 The Medicare Benefits Schedule funding shortfall has the potential to be largely resolved if the Commonwealth achieves the implementation of their Primary Health Care Access Program across the Territory. However due to budget constraints this is not expected to be fully implemented in much less than a ten year time frame. This means that the current Medicare Benefits Schedule deficit will continue to disadvantage the Territory for some years to come unless alternative ways can be found to improve access to Medicare Benefits Schedule funded services. Introduction of telemedicine and approval for remote area nurse practitioners to claim under Medicare could assist with this if successfully implemented.
- 5.75 Another issue that creates problems in accessing Commonwealth funding is the plethora of programs under which the funding is provided. Each of these programs have their separate eligibility criteria and funding terms and conditions. Separate funding agreements have to be negotiated for each of these programs. The complexity and number of these funding programs creates inefficiencies in resource distribution across the country and extra cost in securing these resources for use in the Northern Territory.

Family and Children's Services

- 5.76 A key shortcoming is the lack of a national policy framework and shared Commonwealth/State strategic direction across family and children's services, from which more streamlined administrative and jurisdiction-level service delivery arrangements could flow. A capacity for more flexible and appropriate responses could improve indigenous service outcomes.
- 5.77 The lack of infrastructure in remote indigenous communities, many of which have populations of less than 100, mitigates against effective service delivery. This results in significant under-representation of indigenous use of family and individual support services due to lack of access to such services.
- 5.78 Quantifying need for these services is subject to, among other factors, a lack of adequate need indicators, experience and knowledge of services, and language and literacy barriers.

6. EDUCATION

- 6.1 There are numerous initiatives in place in the Northern Territory Department of Education designed to respond to indigenous disadvantage, especially within small remote schools. These relate to resource allocations to redress the effects of isolation, socio-economic disadvantage, cultural differences, language needs, health aspects and lack of economies of scale.
- 6.2 The base funding for all schools is through an established formula based on student enrolments and school size. The staffing formula also includes supplementary staff to assist in predominantly Aboriginal schools either with or without bilingual programs. Additional operational funding is provided in response to the greater input requirements due to the higher costs associated with small, remote schools. The Territory makes use of a number of relatively small Commonwealth funded programs to address disadvantage and relative need.
- 6.3 Individual indigenous student capabilities are monitored through benchmarking of literacy and numeracy undertaken through system wide MAP testing. While this does not address needs specifically, the data can be aggregated to provide system wide information against national benchmarks.
- 6.4 Determination of relative need is also made through the weighting of schools needs via application of the Australian Bureau of Statistics Index of Relative Socio-Economic Disadvantage. The Index of Relative Socio-Economic Disadvantage comprises census variables that correlate to low socio-economic status. These correlate closely with the indigenous student body.
- 6.5 All of these elements which influence the level of additional funding are in response to an assessment of the needs of indigenous students, particularly in remote areas. However they are based on considerations of additional input requirements. They are not based on the level of resources that would be required if similar outcomes for all students were to be achieved.

Application of Commonwealth Programs in the Northern Territory

- 6.6 Two Commonwealth programs utilised by the Territory respond the effects of disadvantage and isolation amongst the student population as a whole. While no explicit differentiation is made between indigenous and non-indigenous students, the programs are predominantly directed towards indigenous students. A further program, English as a Second Language – Indigenous Language Speaking Students (ESL-ILSS), specifically targets indigenous students for English capability and provides short-term support to address deficiency.

Addressing disadvantage – Literacy and Numeracy Programme

- 6.7 The Literacy and Numeracy Program is used to distribute funds to assist disadvantaged students. It is part of a national initiative that provides resources to improve literacy and numeracy outcomes amongst all students.
- 6.8 The Literacy and Numeracy Program has two funding strands – grants to schools to foster literacy and numeracy development, and grants for national literacy and numeracy strategies and projects. Funding available is distributed to schools, regions, or for system wide projects addressing the achievement of improved outcomes in literacy and numeracy for educationally disadvantaged students. Because of their poor results, a major proportion of funding is focused towards indigenous students in small remote schools.
- 6.9 Generally, program funding is allocated to schools on submission basis. Target groups include students from early childhood through to secondary levels, and specifically include indigenous students with inadequate literacy and numeracy skills to undertake the school curriculum. A further program objective is to facilitate the move to consistent and comparable reporting of student outcomes. This will allow the reporting of indigenous students' results, and should facilitate analysis of causal determinants.

Addressing isolation – Country Areas Program

- 6.10 The Country Areas Program targets students in primary and secondary schools who are educationally disadvantaged by geographic isolation. The program aims to improve participation, learning outcomes and personal development in target students.
- 6.11 All schools throughout the Territory, with the exception of Darwin, Alice Springs and the population within a radius of 75 kilometres of these two centres, are eligible for funding under the Country Areas Program. Alice Springs School of the Air and the Open Learning Centre are also eligible as their students reside in the declared area.
- 6.12 The Country Area Program is not specifically directed towards indigenous students. However, there is a strong correlation between geographically disadvantaged and indigenous, and so this is a useful surrogate indicator for indigenous need.

Addressing capability – ESL – ILSS

- 6.13 The ESL-ILSS program aims to assist indigenous students by providing intensive English language tuition to eligible students.
- 6.14 Assistance under the program is through tied Commonwealth funding available for up to 12 months only, and is used for all of the following:
- within schools to provide resources – part-time instructors and supporting teaching materials;
 - to provide additional teachers within schools on an annual basis, and;
 - the central provision of specialist support staff and specifically targeted unprofessional development programs.
- 6.15 Schools access funding according to identified need. Each school identifies indigenous students who require additional tuition to reach Level 1 English oracy. Allocation is then made direct to the schools via a combination of formula and individual requests. For example, small schools are funded at a level of \$500 per indigenous student so that additional materials and instructors can be utilised, whilst larger schools attract additional staff as well as funds for teaching material according to requirements.
- 6.16 Determination of schools entitlement is dependent upon the assessed level of indigenous student need. This is accomplished by assessing individual children in English competency on a one to one basis against an English language development continuum. Whilst this is an assessment for need in English, the program only provides the means to move students to Level 1 English. This fails to account for the need for higher levels of English so that the student is able to effectively participate throughout the full spectrum of schooling. In short – the program addresses a need at a point of time, but does not assess or account for this past the basic level.

Major shortcomings in current funding

- 6.17 The most significant shortcoming in current Commonwealth funding arrangements relates to complexity of the management associated with these funds.
- 6.18 The submission process is complicated because of the specific submission and reporting requirements for each respective initiative. This is further complicated with the internal approval process required to identify potential initiatives worthy of a funding submission. Differing interpretation, data needs and reporting requirements for small discrete amounts require significant administrative effort. This potentially deters would-be applicants from attempting submissions. In small schools this adds significantly to the workload of principals, who have a dual senior teacher role, which translates to reduced effective teaching time.

- 6.19 The short term nature of funding does not allow for longevity in staffing, the build-up of corporate expertise and knowledge, the development of a strategic planning or delivery capability, or the provision of the full range of employee entitlements for contracted staff employed under these conditions, for example – long service leave and superannuation benefits.
- 6.20 The uncertainty of Commonwealth funding over extended periods places increased pressure on the limited core funding available through NT sources. The frequency of recurrent submission requirements – as short as six-monthly – can jeopardise the long-term success of individual programs, especially if funding is terminated and no alternative is available.
- 6.21 Stringent Commonwealth reporting requirements and the inflexibility in use of funds can impede the end use of funding in attainment of program outcomes. This is particularly the case where there are changes in programs and delivery methods. Specific reporting requirements require additional staff to administer Commonwealth funds management. Ideally, management requirements should be the same for all funds, irrespective of source.
- 6.22 Present funding from all sources creates a complicated network of funds management. In some cases, the only way to fully fund initiatives is through aggregation of small ad hoc sources from a number of programs. An example of this is in the provision of rural preschools programs, where funding is provided under IESIP, Country Area, and Literacy and Numeracy programs to allow principals to manipulate staffing allocations.

Northern Territory Funded Programs

English as a Second Language

- 6.23 Additional ESL support for indigenous students is also available through other ESL programs provided by the Northern Territory Department of Education. ESL General Support provides additional ESL specialist staff to schools based on identified need. Currently approximately 50% of the students supported by this program are identified as indigenous. Support is provided on the basis of need across the entire student population, over the years Transition to Year 12. In effect, this program targets indigenous students' English language competency, not only because of their indigenous status.
- 6.24 Support for staff providing ESL for indigenous students is provided through the ESL Coordinator Program and the ESL Teacher Development Project (ESLTDP). The ESL Coordinator Program gives schools access to additional ESL specialist support through the provision of regionally located support staff. Staff are placed to support schools with indigenous students to provide appropriate ESL teaching learning programs. Rigorous professional development of staff in ESL competencies is provided through ESLTDP. Both programs are in response to overall systemic inability to provide appropriately trained staff, rather than identified need of individual students. However, they provide necessary support in addressing indigenous need.

Assessment of individual competency – Multi Level Assessment Program

- 6.25 The Multi-level Assessment Program (MAP) tests monitor standards in English and Mathematics at Years 3, 5 and 7. The MAP tests are conducted in all jurisdictions, to monitor individual student competencies to establish realistic expectations of progress, to structure appropriate learning programs, and to objectively compare academic progress between schools, regions and states. Students in selected age cohorts in most schools are tested in mathematics/numeracy, reading, writing and spelling. Students are also assessed against the national benchmarks for numeracy and literacy. Benchmark items are incorporated within the MAP tests.
- 6.26 Schools can use the results to identify students who have weaknesses in aspects of literacy and numeracy and to correct these deficiencies. The tests are used to assist curriculum planners in the development of the curriculum for English and Mathematics. In this way MAP tests are useful to pinpoint individual student weakness, and identify where additional help is required.

- 6.27 Although the MAP test is primarily a measure of outcome across the student body, the data is disaggregated to identify individual indigenous student competencies in literacy and numeracy. Not all schools undertake the assessment and so the results are not truly reflective of the competency of the student body as a whole. However, this is to change in future where MAP testing is to be applied in all schools.
- 6.28 Nevertheless, there are criticisms of the MAP tests, especially in relation to assessing the capabilities of indigenous students, as academic prowess cannot be fully tested in written form. This does not test for competencies in oracy or general skills. Redesign of MAP testing is being undertaken so that it is more appropriate for indigenous students.

Pilot Programs

- 6.29 Piloting of service delivery is a method being increasingly used to meet needs of individual predominantly indigenous communities. Choice of pilot project, location and duration is negotiated on a case by case basis. The process has targeted specific indigenous communities to address identified needs and may provide an indication of good models to be followed. However, over time where this method may lack consistency and relies upon a vocal advocate – communities may remain unassessed through no fault of their own.

Examples of successful inter agency projects in the Northern Territory

- 6.30 There are a number of successful inter-agency projects that specifically address educational outcomes for indigenous students.
- 6.31 In Alice Springs, two projects are the Irkkerlantye Learning Centre and the Alice Springs Outcomes project. These projects have successfully targeted students who are not attending schools and are achieved through Northern Territory Department of Education partnership with several NT Government agencies and local community groups.
- 6.32 The basis for joint Northern Territory Department of Education and Territory Health Services support centres upon a Framework of Agreement, which addresses education and care services for children. Formed under a Memorandum of Understanding the Northern Territory Department of Education/Territory Health Services Framework Implementation Group has been in existence for over five years and has resulted in a number of projects, including pre-school and childcare services, after hours school care and remote service delivery. The majority of funding for these projects originates from Territory Health Services.
- 6.33 The successful Hearing Program uses shared funding by both agencies to allow a small number of specialist staff to visit schools and arrange ongoing treatment and screening of indigenous hearing problems. The effectiveness of the program is limited, because of the size of the problem and the limited resources available. Further development of the program is under way to optimise support.
- 6.34 A further joint Northern Territory Department of Education and Territory Health Services initiative, in conjunction with the Commonwealth Department of Family and Community Services, is in the provision of preschool services within select indigenous communities. Under development, the joint project will target community needs to provide service delivery for children to 5 years of age, and their families in remote communities. Northern Territory Department of Education manages this project using a combination of resources from Northern Territory Department of Education and the Commonwealth.

7. HOUSING

Distribution of the national indigenous housing funds

- 7.1 The Aboriginal Rental Housing Program distribution formula is based on a 1987 indigenous housing survey, which took into account populations, homelessness, overcrowding and housing stock condition at that time. The Commonwealth acknowledges the formula is outdated.

- 7.2 The national distribution process for Aboriginal Rental Housing Program funds to the States and Territories has remained unchanged for the last ten years, despite numerous efforts by the Territory to obtain a more equitable share of nationally available funds. There has been no increase in funds during that time, and it is estimated that they have declined in real value by about 24% over the period.
- 7.3 The national distribution of ATSIC's Community Housing and Infrastructure Program to State and Territory level is determined by the ATSIC Board of Commissioners, and is understood to be based on ATSIC's Community Housing and Infrastructure Needs Survey, conducted every three or four years.

Indigenous Housing Authority of the Northern Territory (IHANT)

- 7.4 In December 1992 the Council of Australian Governments signed the *National Commitment to Improved Outcomes in the Delivery of Programs and Services for Aboriginal Peoples and Torres Strait Islanders*. The National Commitment recommended the negotiation of bilateral agreements for the consolidated delivery of indigenous programs and services to overcome duplication and overlap.
- 7.5 The first such agreement in Australia, the *Agreement for the Provision and Management of Housing and Related Infrastructure for Aboriginal and Torres Strait Islander People in the Northern Territory*, (the Bilateral Agreement) was signed by the Commonwealth, Northern Territory and ATSIC in June 1995.
- 7.6 The agreement established the Indigenous Housing Authority of the Northern Territory. IHANT membership comprises the two NT ATSIC Commissioners, the seven ATSIC Regional Council Chairs, up to seven (currently five) NT representatives nominated by the NT Housing Minister, and one representative of the Commonwealth Minister for Family and Community Services.
- 7.7 IHANT is responsible, inter alia, for the development and annual review of a five year strategic plan for the delivery of housing and related infrastructure services to indigenous communities, determining a rolling three year operational plan, and establishing policies and guidelines for the delivery of services and programs.

Management of Housing Funds in the Northern Territory

- 7.8 In accordance with the Bilateral Agreement indigenous housing funds in the Northern Territory are pooled through IHANT.
- 7.9 Funds from all sources are held in IHANT's separate interest bearing bank account. They are not reported on separately. IHANT reports annually to the Parties to the Bilateral Agreement (the Commonwealth and Territory Housing Ministers and the ATSIC Chair) on total program outcomes.
- 7.10 IHANT allocates resources on the basis of need and relative need and uses the measure of "bedroom need" as its indicator of housing need.
- 7.11 This measure is defined in detail in an ATSIC commissioned study, *The Housing Need of Indigenous Australians 1991*, by Dr Roger Jones of the Australian National University, first commissioned by ATSIC for the 1992 Community Housing and Infrastructure survey. The study considered ways of measuring need, including housing adequacy (overcrowding) and financial housing stress (after housing poverty), and used both indicators to measure housing stress between indigenous and non-indigenous populations, between States and Territories and between ATSIC Regions.
- 7.12 The report concludes that overcrowding is the most equitable measure of need, given the current high levels of homelessness and overcrowding, and this is the measure adopted by IHANT.
- 7.13 After making some Territory wide allocations for items such as the land servicing program, IHANT currently distributes its remaining available funds between ATSIC Regions using the relative needs data in the Housing Needs report, as noted above.

- 7.14 Community distributions are developed over a three year operational planning period, using information from the Community Information Access System data base. The data includes community populations and the number and condition of houses by community and region. Local knowledge about issues such as population mobility, and housing allocations to be made under ATSIC's National Aboriginal Health Strategy Program (see below) are also taken into account. Grants are then provided to communities, which are required to maintain wait lists and to allocate houses on the basis of need.
- 7.15 Dr Jones has undertaken a similar analysis of the 1996 Census data. His findings are currently being analysed by Territory Housing, and will be considered at the next meeting of IHANT. This work is also being considered by the Commonwealth/State Working Group on indigenous Housing established by the Housing Ministers, with a view to developing the modelling approach to be used at the national level in allocating funds to States and Territories. This work is still being refined, and will proceed further for negotiation by the States and Territories once new data becomes available.

Shortcomings in current funding arrangements

- 7.16 The Northern Territory has a huge backlog of indigenous housing need, estimated at 34% of the total national need. The Community Information Access System data base identifies a need for an additional 12,700 bedrooms (ie more than 4,200 three bedroom houses). There is a need for a significant increase in the quantum of funds available nationally, as well as an equitable distribution process for existing funds.
- 7.17 ATSIC administers a large national program, the National Aboriginal Health Strategy the main focus of which is improvements to environmental health conditions in indigenous communities. Significant funds have been allocated to projects in the Northern Territory and many of the projects include construction of new houses. Details can be provided if required.
- 7.18 The ATSIC Board determined that this Program would be program managed in each State and Territory, and went through a public Program Management tendering process, despite the Territory's protest that the Program should be managed concurrently with IHANT's housing program, in the spirit of the National Commitment and the Territory Bilateral Agreement. The Territory subsequently bid for Program Manager of the National Aboriginal Health Strategy project but was unsuccessful, the work going to Ove Arup and Partners. Duplication of indigenous housing programs in the Territory therefore continues, though efforts have been made to maximise coordination.
- 7.19 Concerns have also been raised at the process for determining and prioritising National Aboriginal Health Strategy projects at the Territory level. It is believed that the needs of some communities with poor environmental health standards and high levels of housing need are not being addressed under the National Aboriginal Health Strategy Program, because of their poor community management practices.
- 7.20 A similar though much smaller example of continued duplication is ATSIC's recently conceived "Fixing Houses for Better Health" Program, aimed at carrying out urgent essential repairs to 1000 houses nationally (about 200 in the Territory). It appears this program will also be managed separately from IHANT, though IHANT has determined which communities should participate. Though the funds are welcome, this program essentially duplicates IHANT's Maintenance Program.

8 ABORIGINAL LAND TENURE

- 8.1 The Northern Territory faces three different regimes of land title administration – Land Rights, Native Title, and the general laws of the Northern Territory which relate to land tenure and land administration.
- 8.2 The uncertainty that arises for land administration uniquely in the Territory is a direct result of having two Commonwealth land administration regimes imposed on this jurisdiction. The complex arrangements add expense to land administration and land dealings in the Territory.
- 8.3 Further, the early stage of the Northern Territory's development, compared to the more settled States, means that the Territory is more greatly affected by *Native Title Act* than any other jurisdiction.

Effect of Aboriginal land rights legislation

- 8.4 The *Aboriginal Land Rights (Northern Territory) Act 1976* is Commonwealth legislation and is unique to the Northern Territory.
- 8.5 The *Land Rights Act* provides the basis upon which Aborigines claiming to have a traditional land claim to an area of land may make an application to an Aboriginal Land Commissioner appointed under the Act. Over 50% of the Territory's land area is land granted or under claim.
- 8.6 The majority of land claimed is unalienated Crown Land; that is, land vested in the Northern Territory Crown in which no person (other than the Crown) has an estate or interest. Claims are also received in respect of alienated Crown Land in which all estates and interests not held by the Crown are held by, or on behalf of, Aborigines; for example, Aboriginal owned pastoral leases.
- 8.7 Section 73 of the *Land Rights Act* makes provision for the Northern Territory to legislate in respect of the closure of seas where Aboriginal claims are proven. The Territory has complied with this provision by passing the *Aboriginal Land Act 1979*.
- 8.8 Land granted under the *Land Rights Act* is unlike other freehold land. Title to the land is vested in the respective land trusts, who hold the land in perpetuity on behalf of the traditional owners. The *Land Rights Act* is prescriptive and sets out the powers and functions of the land trusts and Land Councils in any future dealings in the land.
- 8.9 The legislation puts an effective constraint on Territory development. As land granted is inalienable freehold, the land trusts are unable to dispose of the land, which raises difficulties in being able to mortgage or raise capital over the land. Additionally, any leases made by the land trusts are constrained by Section 19 of the *Land Rights Act*, which prohibits the dealing with, or disposal, of Aboriginal land with limited exceptions.

Impact of the Native Title Act

- 8.10 The *Native Title Act 1993* became effective from 1 January 1994. While the full range of effects of the Native Title legislation has yet to be determined, the Territory has already incurred expenditure as a consequence of complying with the negotiation, arbitration and litigation processes entailed in the legislation. There is also the cost to the Territory of development projects that have been delayed due to uncertainties surrounding native title claims. In this context, claims over land in urban areas and over existing pastoral leases are of particular interest.
- 8.11 With the advent of the *Native Title Act*, the Territory has been obliged to act as if the concept of vacant Crown Land does not exist. Any proposed alienation of land must now be preceded by a tenure history search and an assessment of risk before alienation proceeds. (Alienation refers to changing the tenure of land from Crown Land to another form of tenure, for example, a development lease or freehold title).
- 8.12 Where a tenure history search reveals a past tenure, event or usage which extinguishes native title, there is no constraint on proceeding to deal with the land. Where there has been no extinguishing event or usage, or there is doubt that native title has been extinguished, then an assessment of the Territory's exposure should it alienate land and native title is subsequently found to exist, is carried out. Exposure and risk would be commensurate with the magnitude of and the proposed expenditure on, the development. Generally, the larger and more expensive the development, the greater is the potential risk to government.
- 8.13 In situations where native title may exist, the Territory must comply with the future act provisions of the *Native Title Act* before taking any action to change the tenure of the land.
- 8.14 The Federal court has held that native title can coexist with freehold Aboriginal land title under the *Land Rights Act* although the High Court has indicated that it does not necessarily agree with this decision.

- 8.15 Proceeding on the basis that a pastoral lease in the Territory does not extinguish native title, the combined effect of the *Land Rights Act* and the *Native Title Act* is that 98.6 per cent of Northern Territory land is potentially subject to lengthy negotiation and litigation processes.
- 8.16 These complex land tenure arrangements influence not only development issues but the provision of Government services on Aboriginal land or land subject to claim.