

Service Delivery Arrangements

Overview

- 5.1 In the absence of a state government, the Department of Infrastructure and Regional Development (DIRD) manages the provision of state-type services in the Indian Ocean Territories (IOT) through:
- Service Delivery Arrangements (SDA) with Western Australian (WA) Government agencies;
 - contracts with private entities; and
 - directly, where services cannot be provided via an SDA or privately.¹
- 5.2 Through these arrangements DIRD aims to ensure that:
- ...[IOT] communities... have access to similar services as those available to comparable mainland communities.²
- 5.3 Most state-type services are provided in the IOT through SDA.³ DIRD is empowered to enter into SDA with WA Government agencies by section 8H of the *Christmas Island Act 1958* (Cth) and the *Cocos (Keeling) Islands Act 1955* (Cth).⁴

1 Department of Infrastructure and Regional Development, *Service Delivery Arrangements (SDA) Information Kit*, 2015, p. 13.

2 Department of Infrastructure and Regional Development, *Service Delivery Arrangements (SDA) Information Kit*, 2015, p. 19.

3 Department of Infrastructure and Regional Development, *Christmas Island state-type services*, <http://regional.gov.au/territories/christmas/governanceadministration.aspx>, viewed 13 January 2016; Department of Infrastructure and Regional Development, *Cocos (Keeling) Islands state-type services*, http://regional.gov.au/territories/Cocos_Keeling/governanceadministration.aspx, viewed 13 January 2016.

4 *Cocos (Keeling) Islands Act 1955* (Cth), s. 8H; *Christmas Island Act 1958* (Cth), s. 8H.

- 5.4 WA Government agencies are considered best placed to enter into these arrangements as WA law is applied in the IOT. A State-Coordinator, funded by DIRD and situated in the WA Department of Premier and Cabinet, assists DIRD to 'negotiate, develop and review SDA' with individual WA Government agencies.⁵
- 5.5 In 2014-15 the Commonwealth engaged 40 WA agencies to delivery services in the IOT, at a total cost of \$34.97 million.⁶ Most agencies received a set annual budget. However, a few provide services on a fee for service basis.⁷
- 5.6 Services provided under SDA include policy development, regulatory functions and direct service delivery.⁸ For example, the WA Disability Services Commission received approximately \$100,000 to provide:
- ... support... services to people with disabilities, their families and carers in the IOT including the services of a Local Area Coordinator.⁹
- 5.7 Whereas the WA Economic Regulation Authority is engaged on a fee-for-service basis to promote economic efficiency through:
- ...efficient and effective independent economic regulation.¹⁰
- 5.8 Throughout the inquiry the Committee heard broad criticism of SDA. Criticism centred on the process for SDA development and review, the adequacy of services provided and value for money.

Chapter outline

- 5.9 This chapter begins by outlining community consultation to inform the development and review of SDA, including how consultation occurs, community criticism of the process and options for improvement.

5 Department of Infrastructure and Regional Development, *Service Delivery Arrangements (SDA) Information Kit*, 2015, p. 19.

6 Department of Infrastructure and Regional Development, *Submission 36*, p. 9.

7 Department of Infrastructure and Regional Development, *Submission 36*, p. 9; Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, pp. 2, 5.

8 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, p. 3.

9 Department of Infrastructure and Regional Development, *Indian Ocean Territories 2015-16 Budget Overview and 2014-15 Budget Outcomes*, July 2015, p. 4.

10 Department of Infrastructure and Regional Development, *Indian Ocean Territories 2015-16 Budget Overview and 2014-15 Budget Outcomes*, July 2015, p. 5.

- 5.10 It considers the accountability and transparency of service delivery in the IOT and describes recent changes to enhance SDA funding arrangements and agreement templates.
- 5.11 The chapter concludes by briefly examining value for money issues associated with SDA and the suggestion that local government could become more involved in service delivery in the IOT.

Consultation

- 5.12 DIRD informed the Committee that:

A key component of the renegotiation of SDAs is consultation with the community...¹¹

- 5.13 However, many stakeholders suggested that DIRD and WA Government agencies do not adequately consult the community in relation to the development and review of SDA for the IOT. In fact Mr Barry Haase claimed that:

Consultation rarely takes place. There is a lot of information collected and a lot of information delivered, but I do not see a clear process of consultation.¹²

- 5.14 The following sections examine community consultation in relation to administration and service delivery.

Consultation mechanisms

- 5.15 In the IOT there is no overarching consultation protocol or formal consultation mechanism to focus community engagement with administration and service delivery.¹³ Rather, DIRD and WA Government agencies delivering services in the region employ a range of mechanisms to consult the community, including through:

- the Administrator;
- the Community Consultative Committee on Christmas Island; and
- ad hoc community meetings.¹⁴

11 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 6.

12 Mr Barry Haase, private capacity, *Committee Hansard*, Canberra, 3 December 2015, p. 9.

13 Department of Infrastructure and Regional Development, *Submission 36*, p. 8; Department of Infrastructure and Regional Development, *Submission 36.2*, p. 5; Commonwealth Ombudsman, *Submission 30*, p. 3.

14 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 6; Department of Infrastructure and Regional Development, *Submission 36*, p. 8.

- 5.16 These consultation mechanisms are supplemented by communication and feedback tools including: the DIRD website, community bulletins and an online community engagement form.¹⁵

Administrator's community conversation group

- 5.17 DIRD said the Administrator regularly convenes a community conversation group to consult with IOT residents and community organisations:

...to discuss a range of matters, share information and solicit views.¹⁶

- 5.18 DIRD described the Administrator's conversation group as:

...an informal mechanism to be able to engage with people about what [the] issues are. Often it is not in the culture of these communities to complain formally to government so it is important to understand what the priorities are of the community...¹⁷

- 5.19 Any concerns about service delivery raised by the community during the conversation group are pursued by the Administrator directly with the relevant WA Government agencies or with the assistance of DIRD. Ms Karly Pidgeon, General Manager, Jervis Bay and Indian Ocean Territories Branch, DIRD explained:

[The Administrator] interacts with some of those WA agencies around issues that have been raised... I speak to him every Thursday for an hour and throughout the week as well on particular issues that have come up. We investigate issues that he has raised and try to help resolve those because that is one of the main avenues for community to raise issues on the islands.¹⁸

- 5.20 DIRD observed:

...the 'Administrator's conversations' are highly regarded by communities on both Christmas Island and Cocos (Keeling) Islands.¹⁹

15 Department of Infrastructure and Regional Development, *Submission 36*, p. 8.

16 Department of Infrastructure and Regional Development, *Submission 36*, p. 7.

17 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 6.

18 Ms Karly Pidgeon, General Manager, Jervis Bay and Indian Ocean Territories Branch, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, p. 6.

19 Department of Infrastructure and Regional Development, *Submission 36*, p. 7.

Community Consultative Committee

- 5.21 The Community Consultative Committee (CCC) was established on Christmas Island in 1992. It was formed to advise the Commonwealth and inform the community in relation to the development of SDA and the application of WA law in the territories. Members include representatives from Christmas Island community groups and the Shire of Christmas Island. Initially, the CCC was funded by the Commonwealth and managed by the Shire of Christmas Island. However funding was discontinued in 2013-14 and since this time the Shire of Christmas Island has managed the CCC independently.²⁰
- 5.22 Mr Chris Su, Chairman of the Indian Ocean Group Training Association (IOGTA) said that DIRD used to consult the CCC annually in relation to SDA:
- It used to meet with [DIRD] once a year to review the SDA performance and to provide feedback on the performance of the [WA] state agencies over their contracted period.²¹
- 5.23 Mr Su noted that in recent years DIRD stopped consulting the CCC and began unilaterally renewing SDA.²²
- 5.24 However, DIRD claimed that it has recently sought to reengage with the CCC, specifically in relation to the 2014-15 renegotiation of SDA:
- The [CCC] is an important source of advice and feedback to the Department...
- Representatives of the Department met with the [CCC] on Christmas Island in December 2014 and March 2015 to discuss the SDA review process and to seek feedback on the SDAs being renegotiated, including services to be provided under those SDAs. Input from the [CCC] informed the selection of SDAs that were renegotiated in 2014-15.²³
- 5.25 There appears to be no CCC, or equivalent consultation mechanism on the Cocos (Keeling) Islands.

20 Mr Chris Su, Chairperson, Indian Ocean Group Training Association, *Committee Hansard*, Christmas Island, 9 April 2015, p. 20; Mr Stephen Clay, *Submission 41*, p. 3; Malay Association of Christmas Island, *Submission 24*, p. 2; Christmas Island Neighbourhood Centre, *Submission 37*, p. 5.

21 Mr Chris Su, Chairperson, Indian Ocean Group Training Association, *Committee Hansard*, Christmas Island, 9 April 2015, p. 20.

22 Mr Chris Su, Chairperson, Indian Ocean Group Training Association, *Committee Hansard*, Christmas Island, 9 April 2015, p. 20.

23 Department of Infrastructure and Regional Development, *Submission 36.2*, pp. 5-6.

Community meetings with DIRD and WA Government officials

5.26 The Committee heard that DIRD and the WA Government agencies delivering services in the IOT conduct community meetings and consultation sessions to inform administration and service delivery in the region.²⁴ Ms Fleming explained:

The process has been that we have taken those [WA] agencies where we are renegotiating Service Delivery Agreements to the islands and we have held consultations... This is a recent reinvigoration of the process... which gives people a direct chance in the community to engage with the state. [WA agencies] also... visit the island regularly so they have a chance to discuss day-to-day issues.²⁵

5.27 Ms Pidgeon described recent community consultation meetings to illustrate how this consultation mechanism is deployed in the territories:

We then undertook community visits in March [2015] to both islands. The delegation included two staff from [DIRD's Canberra office] and the person who is the coordinator within the Department of Premier and Cabinet in [WA]. Meetings were held with 34 different stakeholders. We had open community meetings which anyone could attend on Home Island, West Island and Christmas Island and then we actually undertook individual meetings as well... we use that to inform each of the SDAs in the renegotiation.²⁶

5.28 DIRD said that WA Government agencies also conduct independent community consultation:

...representatives from the WA Government meet with key stakeholders, including both shires, when they visit the IOT to seek feedback on services being provided.²⁷

5.29 However, Ms Fleming noted that DIRD does not have oversight of WA public servants' visits to the IOT:

We are trying to get greater awareness of who is coming on island and when and making sure there is some kind of bulletin that can

24 Department of Infrastructure and Regional Development, *Submission 36*, p. 8; Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October, p. 2.

25 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October, p. 2.

26 Ms Karly Pidgeon, General Manager, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, p. 2.

27 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 6.

say to people who is on island and what they are on island to look at...²⁸

- 5.30 DIRD claimed that it also holds fortnightly teleconferences with the Shire of Christmas Island and the Shire of Cocos (Keeling) Islands:

The Department holds fortnightly teleconferences with the Chief Executive Officers of both IOT Shires... [to] provide opportunities to share the views of the local community on issues.²⁹

Community dissatisfaction with consultation

- 5.31 A range of stakeholders suggested that community consultation to inform administration and service delivery in the IOT requires improvement. While dissatisfaction was broadly expressed, the exact nature of the grievances with the existing consultation process was not always specified.

- 5.32 The Commonwealth Ombudsman conducted community complaints clinics in the IOT in 2013 and 2014. It claimed that feedback collected during these clinics suggested that community dissatisfaction arises from:

...DIRD and IOT residents hav[ing] different expectations of the appropriate level of consultation and communication.³⁰

- 5.33 Evidence provided by DIRD and IOT residents throughout the inquiry appears to illustrate this view. Ms Fleming claimed that extent of community consultation on IOT services is similar to that which occurs on mainland Australia:

The policy parameters within which we operate are that we try to provide services to the territories as if they were part of the state... So, if I have a water problem in a territory, as a normal Australian citizen sitting in a community I will not necessarily be consulted about how often the water service provider will come and deliver services... [I] might have a particular interest in some policies, but I will not necessarily be involved in each and every state government decision as a citizen of a community.³¹

28 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 7.

29 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 6.

30 Commonwealth Ombudsman, *Submission 30*, p. 3.

31 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 6.

5.34 However, many IOT residents felt that community consultation in relation to services is inadequate. Christmas Island local, Mr Peter Griggs claimed that decisions are made in DIRD's Canberra and Perth offices:

...with very little input requested from the local communities.³²

5.35 Mr Haji Adam, resident of Cocos (Keeling) Islands submitted that:

Expression of concerns from the local community [have] been raised with regards to the lack of [a] full consultation process [with] the community.³³

5.36 The Shire of Christmas Island stated:

The existing consultation mechanisms do not give the community any determinative say on the SDA or the application of applied laws.³⁴

5.37 The Commonwealth Ombudsman noted that DIRD has no formal protocol clarifying when and by what mechanisms it will conduct community consultation:

There does not appear to be any clear statement of expectations about how DIRD will engage with residents, leading to confusion and dissatisfaction over the level of consultation conducted.³⁵

5.38 Further, the Commonwealth Ombudsman observed that without a protocol, consultation appeared 'ad hoc' and it wasn't clear which consultation mechanisms were endorsed by DIRD:

During our inquiries we also noted a number of community consultative committees appear to be operating or being re-established, but it was not clear what support DIRD provided to them.³⁶

5.39 The Commonwealth Ombudsman suggested that residents do not understand the role of the Administrator in relation to community consultation:

Previous Administrators have taken an active role in forwarding issues of concern to residents to DIRD. We understand that the current Administrator is also closely engaged with the community. However it appears that the community's expectations of the

32 Mr Peter Griggs, *Submission 19*, p. 1.

33 Mr Haji Adam, *Submission 35*, p. 3.

34 Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Christmas Island, 9 April 2015, p. 10.

35 Commonwealth Ombudsman, *Submission 30*, p. 3.

36 Commonwealth Ombudsman, *Submission 30*, p. 3.

Administrator's ability to influence change are not consistent with the Administrator's formal role.³⁷

- 5.40 The Administrator, Mr Barry Haase suggested that appointees to the role are also uncertain of their responsibilities pertaining to consultation:

It is fair to say that my instructions from the Minister were to consult with the community. There is no specified level of that consultation, however. Whether or not they were my instructions, I would automatically be involved in that communication process. But forever the questions will be raised: at what level should that communication and consultation take place, what should its frequency be, with whom should it be and what issues should be relayed back to the Minister?³⁸

- 5.41 Other evidence received by the Committee suggested that the community has a negative perception of consultation because the outcomes of consultation are frequently not relayed back to the community. The Christmas Island Tourism Association said:

Where consultation and engagement have occurred the feedback loop is often not sufficiently completed, which does not create positive relationships between the stakeholders.³⁹

- 5.42 Consequentially, many stakeholders held the view that community consultation is not taken into account by decision makers in Perth and Canberra. Christmas Island resident, Mr John Richardson said community consultation 'only occurs to tick boxes':

Rarely has community concern been echoed in the final decision making process. Rather, the decision is eventually made was that decision which was already made before the consultation occurred.⁴⁰

- 5.43 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands felt that recent consultation was not meaningful:

The bandwagon came to town a couple of weeks ago. Anyone who wanted to meet could. They also met with various groups to token discuss SDAs. It did not matter what we wanted to say; they weren't listening... They are not interested.⁴¹

37 Commonwealth Ombudsman, *Submission 30*, p. 3.

38 Mr Barry Haase, Administrator, *Committee Hansard*, Christmas Island, 9 April 2015, p. 31.

39 Christmas Island Tourism Association, *Submission 26*, p. 7.

40 Mr John Richardson, *Submission 40*, p. 1.

41 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (keeling) Islands, 8 April 2015, p. 6.

- 5.44 Community dissatisfaction with consultation was a recurrent theme when the Committee visit the IOT in April 2015. During community statements evidence was presented suggesting that DIRD had failed to adequately engage with emergency service volunteers in the lead up to the expiration of an SDA with the WA Department of Fire and Emergency Services (DFES).⁴²
- 5.45 On further investigation the Committee found that the SDA, due to expire on 30 June 2015,⁴³ was an agreement between the Commonwealth and DFES to:
- Support volunteer [fire and marine rescue] brigades, including planning, training, and equipment. Provide community education on safety issues, and vet compliance with building fire safety requirements.⁴⁴
- 5.46 Mr John Richardson, Commander of Christmas Island Marine Search and Rescue, was critical of the consultation and renegotiation undertaken in the lead up to the SDA's expiration. He claimed that:
- emergency service volunteers were not kept informed when the SDA with DFES was being renegotiated;
 - emergency service volunteers were not consulted in relation to a new SDA with DFES until they demanded to have input;
 - DIRD did not employ an established mechanism to consult the community in relation to the SDA with DFES; and
 - DIRD did not relay the outcomes of consultation, or the SDA renegotiations back to the community in a timely manner.⁴⁵
- 5.47 As at July 2015, when Mr Richardson made his submission to the inquiry, he said that emergency service volunteers were advised that the SDA with DFES had been partially renewed for 12 months, but were not informed which services would still be covered by the arrangement and which were not.⁴⁶
- 5.48 In response to follow-up questions from the Committee, DIRD advised that the renewed SDA enables DFES to provide core training to

42 Mr John Richardson, private capacity, *Committee Hansard*, Christmas Island, 9 April 2015, pp. 46-47.

43 Mr John Richardson, *Submission 40*, p. 3; Department of Infrastructure and Regional Development, *Submission 36.2*, p. 9.

44 Department of Infrastructure and Regional Development, *Indian Ocean Territories 2015-16 Budget Overview and 2014-15 Budget Outcomes*, July 2015, p. 5; Department of Infrastructure and Regional Development, *Submission 36.2*, p. 9.

45 Mr John Richardson, *Submission 40*, p. 3.

46 Mr John Richardson, *Submission 40*, p. 3.

volunteers, but no longer covers the provision of administrative support to emergency services. DIRD added that it is recruiting a dedicated Emergency Management Officer to provide administrative support to volunteer emergency service in lieu of DFES services.⁴⁷

Calls for a formal consultation protocol

5.49 The Commonwealth Ombudsman suggested that community consultation could be improved through the establishment of:

...a protocol which sets out the extent of [DIRD's] commitment to consult, the manner in which such consultations will be undertaken and how the outcomes will be communicated.⁴⁸

5.50 It argued that such a protocol would assist DIRD to manage the community's expectations around consultation.⁴⁹

5.51 Other stakeholders made similar observations. Mr Stephen Clay, a retired public servant with experience in IOT administration said:

Consultative mechanisms have evolved over the years without any coherent plan and it is probably time to review and codify the core mechanisms. At an individual agency level this could be through a charter of service and at a whole of government level via a vision statement endorsed by Government.⁵⁰

5.52 Mr Clay specified that the current range of consultation mechanisms should be retained and formalised in the protocol:

...a variety of techniques should be used including existing methods such as the Administrator Conversations, Emergency Management Committees, the Interdepartmental Consultative Committee, Regional Development Committees and others.⁵¹

5.53 Dr Martin Drum, a senior university lecturer in politics and international relations, recommended that a 'formal procedural role for consultation' be incorporated in each SDA.⁵²

5.54 A number of community groups highlighted previous Joint Standing Committee on the National Capital and External Territories (JSCNCET) recommendations pertaining to consultation including:

47 Department of Infrastructure and Regional Development, *Submission 36.5*, p. 1.

48 Commonwealth Ombudsman, *Submission 30*, p. 3.

49 Commonwealth Ombudsman, *Submission 30*, p. 3.

50 Mr Stephen Clay, *Submission 41*, p. 5.

51 Mr Stephen Clay, *Submission 41*, pp. 3-4.

52 Dr Martin Drum, *Submission 22*, p. 1.

- a recommendation to legislate a formal consultation framework in relation to service delivery in the IOT;⁵³ and
 - a recommendation to develop a formal community consultation mechanism.⁵⁴
- 5.55 The Indian Ocean Group Training Association argued that, if adopted, these recommendations would ensure that:
- ...whoever the decision makers were, be it the Office of the Administrator or the [DIRD's] IOTs Director, [they] would be delivering outcomes more closely aligned with the priorities of the community.⁵⁵
- 5.56 Although the Australian Government responses to recommendations on consultation made in earlier JSCNCET reports were not supported,⁵⁶ the Commonwealth Ombudsman noted that DIRD is currently considering establishing a formal consultation protocol:
- DIRD gave an undertaking to our office to consider establishing a protocol which sets out the extent of its commitment to consult, the manner in which such consultations will be undertaken and how the outcomes will be communicated. We believe this would assist in managing community expectations. DIRD recently provided our office with an update on its progress on a number of matters including the online feedback portal and its consultation with residents for its review of several SDAs. We acknowledge that this reflects ongoing work being progressed by DIRD, but remain of the view that developing a shared understanding between DIRD and the community of what constitutes an appropriate consultation process is critical. We will monitor DIRD's progress on their undertaking to consider and articulate the broader principles underpinning its consultation and communication with residents.⁵⁷

53 Indian Ocean Group Training Association, *Submission 25*, p. 2; Christmas Island Neighbourhood Centre, *Submission 37*, p. 4; Malay Association of Christmas Island, *Submission 24*, p. 5; Joint Standing Committee on the National Capital and External Territories, *Report on Current and Future Governance Arrangements for the Indian Ocean Territories*, May 2006, p. 75.

54 Christmas Island Neighbourhood Centre, *Submission 37*, p. 4; Indian Ocean Group Training Association, *Submission 25*, p. 2; Joint Standing Committee on the National Capital and External Territories, *Report on the Visit to the Indian Ocean Territories 21-25 October 2012*, p. 17.

55 Indian Ocean Group Training Association, *Submission 25*, p. 2.

56 Australian Government, *Response to the Report on Current and Future Governance Arrangements in the Indian Ocean Territories*, 2007, p. 13; Australian Government, *Response to the Report on the Visit to the Indian Ocean Territories 21-25 October 2012*, August 2014, p. 1.

57 Commonwealth Ombudsman, *Submission 30*, pp. 3-4.

- 5.57 The Commonwealth Ombudsman emphasised that it is willing to assist DIRD to develop a consultation protocol.⁵⁸

Committee comment

- 5.58 Throughout the inquiry, the Committee heard from many witnesses who believed that community consultation conducted by DIRD was inadequate. Stakeholder evidence, including Mr Richardson's account of consultation conducted in the lead up to the expiration of the SDA for DFES, highlighted a number of serious issues with DIRD's consultation practices.
- 5.59 It appears that DIRD does not consistently:
- keep relevant stakeholders informed when an SDA is being renegotiated;
 - provide an opportunity for the stakeholders to have meaningful input into SDA negotiations;
 - employ an established mechanism to consult the community; and
 - relay the outcomes of consultation, or the SDA renegotiation back to the community in a timely manner.
- 5.60 The Committee notes the critical importance of emergency services, particularly in remote locations. The situation that arose in the lead up to the expiration of the DFES SDA must not be allowed to happen again. The Committee would like to see DIRD strengthen its consultation process. There is evidence that consultation could be improved through the establishment of a formal consultation protocol clarifying:
- when the community will be consulted;
 - the consultation mechanisms which will be used; and
 - how and in what timeframe consultation outcomes will be communicated back to the community.
- 5.61 A protocol will foster the community's understanding of consultation and empower residents to seek opportunities to contribute to decision making if they wish. A protocol may also assist DIRD to coordinate consultation undertaken independently by WA Government agencies and manage community expectations around appropriate consultation levels.
- 5.62 The Committee acknowledges that DIRD is considering establishing a formal consultation protocol and urges it to work with the Commonwealth Ombudsman to develop this as a matter of priority. DIRD

58 Mr Colin Neave, Commonwealth Ombudsman, *Committee Hansard*, Canberra, 17 September 2015, p. 3.

should also consider establishing a community consultation committee for the Cocos (Keeling) Islands.

Recommendation 11

The Committee recommends that the Department of Infrastructure and Regional Development develop, publish and implement a formal consultation protocol for Service Delivery Arrangements and the delivery of services in the Indian Ocean Territories.

Accountability and transparency

5.63 A range of stakeholders criticised the accountability and transparency of SDA between the Commonwealth and WA Government agencies.⁵⁹ Former Administrator, Mr Jon Stanhope censured DIRD for not routinely publishing annual budgets for service delivery in the IOT:

...[DIRD] does not publish a forward budget or provide any information to residents in advance of the financial year of the budget for the year.⁶⁰

5.64 Other witnesses argued that DIRD does not manage community inquiries, feedback or complaints effectively. Mr Noel Thornton, former Principal of the Christmas Island District High School, noted that DIRD requires school employees not to contact the Department directly:

That is an instruction from [DIRD]. So all communication between the school on Christmas Island and the one on Cocos Island has to go through [the WA Department of Education] in Perth who passes that information on [to DIRD] and, at some stage, it comes back to us. We are not quite sure how many people it goes through, but we are not allowed to have direct communication.⁶¹

5.65 Mr Thornton argued that this policy removes accountability for decision making:

I suspect that in a lot of cases we see a giraffe at the end of the exercise. Because the message that went around about the horse

59 Chinese Literary Association of Christmas Island, *Submission 3*, p. 2; Christmas Island Neighbourhood Centre, *Submission 37*, p. 4; Mr John Richardson, *Submission 40*, p. 4; Dr Martin Drum, private capacity, *Committee Hansard*, Perth, 8 May 2015, p. 7; Malay Association of Christmas Island, *Submission 24*, p. 5.

60 Mr Jon Stanhope, *Submission 2.1*, p. 3.

61 Mr Noel Thornton, *Committee Hansard*, Christmas Island, 9 April 2015, p. 22.

we wanted has ended up so mixed up, by the time it gets back no-one quite knows what happened. My opinion is that it removes the concept of being accountable for your decision making.⁶²

- 5.66 Mr Justin Fonte, Operations Manager, St John Ambulance said a recent request from his organisation for urgent funding to train volunteer ambulance officers was not responded to at all:

I think it is over the last... four or five years... that any funding [for the Christmas Island volunteer ambulance service] has fallen away... We have a really good group of volunteers at the moment, but we do not really have the ability to train them.⁶³

A proposal was given to [DIRD] which, because we are sort of coming from behind a little bit, suggested sending a community paramedic, [to conduct training], for an initial period of four weeks as soon as possible. That period has now passed from when we suggested it...

We have not received a response.⁶⁴

- 5.67 Former resident of Cocos (Keeling) Islands now residing in WA, Mr Rahmat Madi Signa said that there is no clear pathway for residents who felt the need to complain about service delivery:

...when complaints are raised concerning SDAs, there is a lack of clear authority and responsibility. The analogy of being treated like a tennis ball is an absolute frustration for IOT residents when dealing with issues relating to SDAs.⁶⁵

- 5.68 Mr Stanhope claimed that issues raised by residents are routinely ignored:

[DIRD] consistently ignores correspondence from residents and community organisations and treats their views and concerns with contempt.⁶⁶

- 5.69 The Commonwealth Ombudsman noted that, aside from an online IOT community engagement form which is discussed in more detail later in the chapter, the Department also has a general complaints process open to all Australians. However the Ombudsman observed:

We found that complainants [in the IOT] were not aware of this and believe that further use of this process would assist resolution

62 Mr Noel Thornton, *Committee Hansard*, Christmas Island, 9 April 2015, p. 22.

63 Mr Justin Fonte, Operations Manager, Country Ambulance Services, St John Ambulance, *Committee Hansard*, Perth, 8 May 2015, pp. 22-23.

64 Mr Justin Fonte, Operations Manager, Country Ambulance Services, St John Ambulance, *Committee Hansard*, Perth, 8 May 2015, p. 24.

65 Mr Rahmat Madi Signa, *Submission 12*, p. 1.

66 Mr Jon Stanhope, *Submission 2*, p. 1.

of some concerns. This complaints process could be further publicised by DIRD in publications and in direct responses to IOT residents.⁶⁷

- 5.70 A number of community groups also raised concern about the transparency of consultant activity in relation to the IOT. The Christmas Island Women's Association claimed that reports are often commissioned but the outcomes are not released to the community:

The community has no direct and easy access to consultation reports, such as the reports on aged care and accommodation and social economic reports. The public can only access these reports through the Freedom of Information Act.⁶⁸

- 5.71 The circumstances surrounding the release of the Australian Healthcare Associates' (AHA) *Review of Aged Care in the Indian Ocean Territories* (2015) provides a good illustration of the lack of transparency around commissioned reports and the impact on the local community.

- 5.72 In 2014, DIRD commissioned AHA to review existing aged care services in the IOT to identify future needs. Cocos (Keeling) Islands Seniors' Group member, Ms Darling Elat said aged care is long standing issue in the territories and the Christmas Island Neighbourhood Centre (CINC) said the community participated in the review enthusiastically.⁶⁹ According to CINC, AHA's report was due in August 2014, but was not released at that time. In January 2015, following numerous community requests, DIRD advised that the reporting date had been extended to February 2015.⁷⁰ However, in April 2015, the report remained unreleased and the Canberra Times published an article claiming that AHA had, reportedly at DIRD's direction, rewritten it 16 times.⁷¹

- 5.73 CINC said a copy of the report and related drafts was requested under Freedom of Information (FOI) legislation:

67 Commonwealth Ombudsman, *Submission 30*, p. 3; Department of Infrastructure and Regional Development, *Feedback and Complaints*, <https://infrastructure.gov.au/utilities/feedback.aspx>, viewed 12 February 2016.

68 Ms Nora Koh, President, Christmas Island Women's Association, *Committee Hansard*, Christmas Island, 9 April 2015, p. 2.

69 Christmas Island Neighbourhood Centre, *Submission 37*, p. 9; Ms Darling Elat, Member, Seniors Group, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, pp. 32-33.

70 Christmas Island Neighbourhood Centre, *Submission 37*, p. 10.

71 Canberra Times, *APS Department orders report to be rewritten 16 times*, 15 April 2015, <http://www.canberratimes.com.au/national/public-service/aps-department-orders-report-to-be-rewritten-16-times-20150414-1mki3m.html>, viewed 29 January 2016.

...the response came back that DIRD that it would release it for a charge of \$4,200 for, '...search and retrieval time and time to examine, consult and prepare a decision.'⁷²

5.74 CINC noted this is not the only instance where the community has felt compelled to use FOI legislation to gain access to a report withheld by DIRD:

CINC also notes that the 2012 [report, *Social and Economic Impacts of the Immigration Detention Centre on the Christmas Island Community*] was only released a year later after two FOI requests from a resident and the Shire.⁷³

5.75 The AHA's *Review of Aged Care in the Indian Ocean Territories* (2015) was eventually released on 24 July 2015.⁷⁴ CINC claimed that community groups involved in the provision of aged care services in the IOT were prevented from planning for future needs by the delayed release of this report.⁷⁵ CINC questioned the fairness of generating reports from community input without providing feedback on the outcomes:

This also speaks to... overall questions on accountability and transparency.⁷⁶

New accountability and transparency measures

5.76 In recent years DIRD has been working to increase the accountability and transparency of service delivery in the IOT. DIRD reported new accountability and transparency measures including:

- the publication of additional SDA information including an annual budget, an information kit for WA agencies and individual SDA factsheets;
- the implementation of an online community engagement form to collect resident inquiries, feedback and complaints about services; and
- the reintroduction of annual SDA performance reports.

SDA budgets and factsheets

5.77 In 2014, DIRD published the *2013–14 Budget Indian Ocean Territories*:

72 Christmas Island Neighbourhood Centre, *Submission 37*, p. 10.

73 Christmas Island Neighbourhood Centre, *Submission 37*, p. 10.

74 Office of the Administrator Indian Ocean Territories, *Community Bulletin A35-2015*, 24 July 2015, p. 1.

75 Christmas Island Neighbourhood Centre, *Submission 37*, p. 10.

76 Christmas Island Neighbourhood Centre, *Submission 37*, p. 10.

Twelve months ago we released the 2013-14 budget... Every year we intend to release a budget that shows the community how we spend the money. That was the first time the community had actually received that level of information.⁷⁷

- 5.78 In 2015, this was followed by the *Indian Ocean Territories 2015-16 Budget Overview and 2014-15 Budget Outcomes* which described the budget for service delivery in 2015-16 and services purchased in 2014-15.⁷⁸
- 5.79 DIRD also published an SDA information kit and individual fact sheets for SDA that were recently renegotiated. The information kit is designed to provide:
- ...background information for [WA] agencies providing services to the territories under SDA with the Commonwealth as represented by [DIRD].⁷⁹
- 5.80 Factsheets outline the services provided by each WA agency engaged under the new SDA agreement template, explain the implications for residents, and provide contact details for further information.⁸⁰

Community engagement form

- 5.81 In 2015, DIRD implemented a formal, online community engagement form for residents of the IOT in English, Chinese and Bahasa Malay. DIRD said:
- The feedback form gives community members the opportunity to ask questions. Make suggestions and provide feedback. It complements existing feedback mechanisms for other services...⁸¹
- 5.82 According to the Commonwealth Ombudsman, DIRD indicated that the community engagement form:
- ...would be supported by an internal process to monitor, handle and respond to correspondence from the IOT community.⁸²

77 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 6; Department of Infrastructure and Regional Development, *2013-14 Budget Indian Ocean Territories*, March 2014.

78 Office of the Administrator, *Community Bulletin A23/2015*, 10 July 2015, p. 1.

79 Department of Infrastructure and Regional Development, *Service Delivery Arrangements (SDA) Information Kit*; August 2015, p. 5.

80 Department of Infrastructure and Regional Development, *Territories publications*, <http://regional.gov.au/territories/publications/index.aspx>, viewed 28 January 2015.

81 Department of Infrastructure and Regional Development, *Community Bulletin 2015/56*, p. 1.

82 Commonwealth Ombudsman, *Submission 30*, p. 3.

SDA performance reports

- 5.83 DIRD informed the Committee that it plans to build on accountability and transparency measures initiated in 2015 with the reintroduction of annual SDA performance reports.⁸³
- 5.84 Annual SDA performance reports were released from 2005-09 when the Department of Transport and Regional Services, and then the Attorney-General's Department oversaw administration and service delivery in the IOT on behalf of the Commonwealth.⁸⁴ DIRD said it is collaborating with the WA Government to reintroduce the practice:
- Every SDA includes a set of performance indicators for services delivered by the agency. These indicators are developed in consultation with the agency and the WA Department of Premier and Cabinet. Agencies report against their performance indicators in their Annual Performance Report to the Department. The Department proposes to collaborate with the WA government in relation to publishing these reports in a consolidated format...⁸⁵
- 5.85 DIRD noted that access to performance information may improve the community's capacity to engage in the review and negotiation of SDA:
- ...this year we will be reintroducing the annual report of those Service Delivery Arrangements so that we can improve the transparency of what happens and, accordingly, the community's capacity to engage with us on the quality and type of services that they are receiving.⁸⁶
- 5.86 The Christmas Island Neighbourhood Centre received DIRD's commitment to publish annual SDA performance reports positively:
- We believe the SDA performance reports are critical for accountability...Without the information provided in the reports, how do residents know what level of services have been provided across each SDA?⁸⁷

83 Ms Karly Pidgeon, General Manager, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, p. 8.

84 Malay Association of Christmas Island, *Submission 24*, p. 2; Department of Transport and Regional Services, *Service Delivery Arrangements (SDA) Performance Reports 2002/2003, 2004*; Attorney-General's Department, *Service Delivery Arrangements (SDA) Performance Reports 2007-2008, 2009*.

85 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 2; Ms Karly Pidgeon, General Manager, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, p. 8.

86 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, p. 2.

87 Christmas Island Neighbourhood Centre, *Submission 37*, p. 4.

Committee comment

- 5.87 The publication of annual budgets, an SDA information kit and factsheets is indicative of DIRD's commitment to improve the accountability and transparency of service delivery in the IOT. While the Committee commends DIRD's recent progress, it notes that the publication of accountability measures, such as performance reports for WA agencies, has been sporadic in the past. It is therefore critical that DIRD maintains this momentum.
- 5.88 It is also important that new accountability and transparency measures are easily accessible and that information is maintained so that it is up-to-date. In this regard the Committee notes that the newly published annual budgets, SDA information kits and SDA factsheets are difficult to locate on DIRD's website. Some are provided without context and that much of the information on service delivery is outdated. Current and easily accessible information on SDA services, WA agencies' performance and the total budget for service provision in the IOT will provide a robust foundation for informed community consultation.

Recommendation 12

The Committee recommends that the Department of Infrastructure and Regional Development continue to publish Service Delivery Arrangement factsheets and annual Indian Ocean Territories' budgets, and recommence the publication of annual performance reports for Western Australian agencies providing services in the Indian Ocean Territories.

These accountability and transparency documents should be made easy to locate on the Department's website and accompanied by current governance and administration information.

- 5.89 Another important step towards more accountable and transparent service delivery in the IOT is DIRD's introduction of a community engagement form to provide a communication avenue dedicated to IOT residents' inquiries, feedback and complaints. The success of the forms will be determined by the consistency and timeliness of DIRD's response to residents who use this mechanism.
- 5.90 This will require DIRD to publicise how forms are processed and commit to responding to submitters within an appropriate timeframe.

Recommendation 13

The Committee recommends that the Department of Infrastructure and Regional Development:

- publicise the process by which community engagement forms are monitored and responded to; and
- commit to responding to feedback provided via the community engagement form within a specified timeframe.

- 5.91 In improving accountability and transparency in the IOT, DIRD must also consider its practices in relation to the publication of commissioned reports. While the Committee recognises that it is not always appropriate to release such reports in their entirety, it is not unreasonable for the community to expect to be advised of the outcomes and local implications, particularly when the community has provided input.
- 5.92 Commissioned reports dealing with local issues should be released to the community in a timely manner. Sensitive information unsuitable for the public domain can be redacted, or alternatively, a public document summarising the key report findings can be released. DIRD must formalise its commitment to release commissioned reports within a suitable timeframe.

Recommendation 14

The Committee recommends that the Department of Infrastructure and Regional Development commit to publishing commissioned reports on issues affecting services in the Indian Ocean Territories, or a summary of report outcomes, as soon as practicable. This commitment should be specified within the Department's consultation protocol.

Modern SDA funding and contractual arrangements

- 5.93 The Committee heard that in recent years the development of new SDA and the renegotiation of existing ones had become increasingly difficult. DIRD explained:
- Up until 2010, they were three-year funding agreements [SDA] with a three-year cycle. But there were... impediments to

renegotiating the Service Delivery Arrangements which we have been working on...⁸⁸

5.94 Immigration detention activities on Christmas Island increased pressure on the IOT budget and the replacement of the *Financial Management and Accountability Act 1997* (Cth) with the *Public Governance and Performance Accountability Act 2013* (Cth) (PGPA Act) had implications for SDA agreement templates.⁸⁹ DIRD said that as a result:

...it has not been possible to renegotiate SDAs. Existing SDAs have been extended via letter for the past two years.⁹⁰

5.95 DIRD noted that some existing SDA, including those with the Department of Lands and Breastscreen WA, have not been reviewed since 2010.⁹¹

5.96 DIRD said it became necessary to modernise SDA, through:

- establishment of an Indian Ocean Territories Special Account for territories funding; and
- development of a new SDA agreement template with the WA Government.⁹²

Indian Ocean Territories Special Account

5.97 Historically, funding for IOT services was allocated in the Annual Federal Budget with additional funds provided later in the budget cycle as required. DIRD reported that this funding system made it difficult to enter into three-year SDA. It said funds allocated to the IOT in the initial Annual Federal Budget could be insufficient by as much as 30-35 per cent as immigration detention activities on Christmas Island expanded and increased pressure on the IOT budget:

So we had a budgetary constraint in that you cannot commit money greater than you have, and you do not have it until February [when additional funds are allocated]. This made

88 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 5.

89 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 5.

90 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 2.

91 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 9.

92 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 5; Department of Infrastructure and Regional Development, *Submission 36.2*, p. 2.

negotiating both the [SDA] and the commercial arrangements incredibly difficult.⁹³

- 5.98 This issue was resolved with the formation of an Indian Ocean Territories Special Account managed by DIRD since 1 July 2015,⁹⁴ which under the PGPA Act provides:

...an appropriation mechanism that sets aside amounts within the [Consolidated Revenue Fund] for spending on the purposes specified in that determination... A special account determination sets out the types of amounts that may be credited to the special account and the purposes for which amounts may be debited from the account.⁹⁵

- 5.99 The Indian Ocean Territories Special Account empowers DIRD to make payments for the delivery of essential services and providing infrastructure within the [IOT].⁹⁶ It also provides a mechanism to collect revenue:

Previously, revenue earned by [DIRD] was deposited into the Consolidated Revenue Fund and returned to the Department in the Portfolio Additional Estimate Statements in February of the following financial year. From 1 July 2015, that revenue will be placed directly into the special account and immediately available for investment in the IOT. This change will allow the Department to better plan activities over the financial year.⁹⁷

- 5.100 Ms Fleming said the Indian Ocean Territories Special Account provides the budget certainty required to negotiate new three year SDA:

That special account operates from 1 July 2015. That has been something we have been pursuing – before my time in territories – for some time...

93 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 5.

94 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 5.

95 PGPA Act (Indian Ocean Territories Special Account 2014 – Establishment) Determination 02, *Explanatory Statement*, p. 1.

96 PGPA Act (Indian Ocean Territories Special Account 2014 – Establishment) Determination 02, *Explanatory Statement*, p. 1.

97 Department of Infrastructure and Regional Development, *Indian Ocean Territories 2015-16 Budget Overview and 2014-15 Budget Outcomes*, July 2015, p.2.

That means that we then have a fixed budget within which we can negotiate Service Delivery Arrangements...⁹⁸

New SDA template

5.101 According to DIRD the introduction of the PGPA Act necessitated the development of a new SDA agreement template to establish 'generic terms and conditions for use across all SDA' that meet the requirements of the PGPA Act.⁹⁹ Ms Pidgeon said SDA are now structured to encompass all the services offered by each WA agency agreeing to deliver services in the IOT:

The SDAs are designed to give [DIRD] access to everything an agency does. That is the new approach. In the past, SDAs were a narrow subsection – we would purchase a particular service from an agency because we cannot hope to replicate everything a state bureaucracy does. With the new SDAs, we are broadening that out to be able to buy anything that that agency does, and that is the header agreement for each year – a work plan is developed now by the agency, and a budget is developed against that work plan.¹⁰⁰

5.102 DIRD reported that it reached agreement on a new SDA template with the WA Department of Premier and Cabinet in June 2015.¹⁰¹ It said that the establishment of a Indian Ocean Territories Special Account and the development of a new SDA agreement template enabled it to begin renegotiating existing SDA with individual WA Government agencies:

[DIRD] intends to renegotiate all SDA in tranches over the next three years... Renegotiation of the first tranche of SDAs commenced in January 2015, community consultation occurred in March 2015 and a number of new SDAs were agreed in July 2015. The remaining SDAs have been extended until their scheduled renegotiation tranche.¹⁰²

98 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 5.

99 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 2, Department of Infrastructure and Regional Development, *Service Delivery Arrangements (SDA) Information Kit*, 2015, p. 24.

100 Ms Karly Pidgeon, General Manager, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, p. 3.

101 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 2.

102 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 2.

Committee comment

- 5.103 The Committee commends DIRD for its work to modernise SDA. The establishment of an Indian Ocean Territories Special Account will facilitate DIRD's forthcoming SDA negotiations. The revised SDA agreement templates and broadening of arrangements to potentially encompass all services offered by each WA agency, with the accompanying annual work plans, should allow service delivery that better meet the needs of IOT residents. It will also give WA agencies greater capacity to respond to needs should they change over time.

Value for money

- 5.104 Throughout the inquiry a range of witnesses questioned whether SDA between the Commonwealth and WA Government agencies achieved value for money. Former Administrator, Mr Brian Lacy claimed that he 'saw very little' of some agencies contracted to deliver services in the IOT:

In my term of office I expressed concerns about the content and delivery of service under a couple of [SDA]. I was concerned that in some cases the [IOT] were not receiving the services to which they were entitled under the agreements.¹⁰³

- 5.105 The Shire of Cocos (Keeling) Islands highlighted a number of SDA it believed do not represent value for money, for example the SDA with the WA Department of Local Government and Communities:

The Department of Local Government... I understand has the amount of \$247,500. This is between Cocos and Christmas... What does the Shire get for that? Stuff all if you ask me. I have been told they have to do training. I question that. When was the last time they came here to Cocos? Four years ago. Yet, with an SDA meeting a little while ago, I got told they were supposed to be coming here every year. They are on the end of the phone for me – that is if they answer the phone. So \$247,500 and what do we get? I do not know. They help us with our elections, apparently. They ran our elections, we got told by the [WA] government. That is funny; I am sure the shire ran the elections, and we had a ballot box in Perth because it takes two weeks to get mail here. For \$247,500 I could get the [WA] Electoral Commission, who charges

103 Mr Brian Lacy, *Submission 39*, p. 10.

like a wounded bull – and I know because I used to work there – to run our elections.¹⁰⁴

- 5.106 The Shire of Cocos (Keeling) Islands was also critical of the SDA with the WA Department of Sport and Recreation:

We will go smaller, to sport and [recreation] – and I am only picking on the small ones here. Fifty thousand dollars between here and Christmas [Island]. What do we get for \$50,000... We get two visits a year and six weeks' worth of [a senior officer's] work. Under employment is a huge issue here on Cocos. For \$50,000 – and I am working on a two-to-one ratio [of approximately \$33,000 for Christmas Island and \$16,000 for the Cocos (Keeling) Islands] – I can employ a part-time officer on Cocos to do sport [and recreation] every day of the year. When I challenged this, I was told that is not how the SDA work and we are actually buying in experience and knowledge. So I asked what knowledge we were buying, and they said [that], if we had a tender for a sport [and recreation] centre... they will help us with our tenders. I would not use a sport [and recreation] officer for a tender.¹⁰⁵

- 5.107 Evidence to the inquiry suggested that DIRD may not be able to negotiate value for money SDA because there are few alternative providers for many services delivered by WA agencies. Dr Drum noted that in recent years the Commonwealth spent more on the delivery of state-type services in the IOT than other remote territories with similar sized populations, such as Norfolk Island. He said one reason for this may be:

The SDA process, which amounts to a negotiation between the Commonwealth and the State of [WA] over the nature of the services and the money allocated to them, is responsible for the majority of funding to the IOT... There are no alternative providers considered, which disadvantages the Commonwealth during the negotiations.¹⁰⁶

- 5.108 Mr Haase agreed and claimed that WA agencies profit significantly from SDA:

The problem is that there is almost no room for negotiation on the cost of a particular service provided by [WA] agencies. My understanding is that we are paying something like cost-plus-

104 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 5.

105 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 5.

106 Dr Martin Drum, *Submission 22*, pp. 3-7.

109 per cent on services provided by the [WA] Government, which I think is extortion.¹⁰⁷

- 5.109 Some stakeholders suggested that better value for money could be achieved if local government had a greater role in service delivery.

Local government involvement in SDA

- 5.110 The Shire of Christmas Island and Shire of Cocos (Keeling) Islands each indicated that they would like to become more involved in the delivery of state-type services currently provided by WA agencies.¹⁰⁸

- 5.111 Councillor Gordon Thomson of the Shire of Christmas Island, argued that the shires should be empowered to adopt a 'formal advisory' role regarding the development of SDA. He referred to a previously unsupported recommendation to that effect made by the JSCNCET in its 2006 *Report on current and future governance arrangements for the Indian Ocean Territories*.¹⁰⁹

- 5.112 Dr Drum suggested how this could be achieved:

The Commonwealth could institute a new SDA process which would allow the Christmas and Cocos Island Shires direct oversight of the SDA process. The Commonwealth and the local Shire could both be involved in the selection of service providers.¹¹⁰

- 5.113 Mr Bowman of the Shire of Cocos (Keeling) Islands suggested that the shires could actually deliver some state-type services in the IOT. While he acknowledged that some SDA provide specialist services that would be difficult for the shires to replicate, Mr Bowman argued some of the simpler services could be delivered in a more cost effective way by the shire than by the WA agencies:

...we can do it cheaper, we can do it better and we actually create [local] employment.¹¹¹

- 5.114 Mr Clay made a similar observation:

107 Mr Barry Haase, Administrator, *Committee Hansard*, Canberra, 3 December 2015, p. 11.

108 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 15; Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Christmas Island, 9 April 2015, p. 6.

109 Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, 9 April 2015, p. 6. Joint Standing Committee on the National Capital and External Territories, *Report on Current and Future Governance Arrangements for the Indian Ocean Territories*, May 2006, p. 104.

110 Dr Martin Drum, *Submission 22*, pp. 10-11.

111 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 16.

Services that could be passed on to local government include economic development, tourism, utilities management, emergency management and all road responsibility throughout the territories.¹¹²

5.115 However, Mr Clay noted that some capacity building may be required:

Having said that, there is scope to enhance the role of local government through genuine capacity building, adequate funding with KPIs and mentoring by established local governments on the mainland.¹¹³

5.116 DIRD claimed it is open to the possibility of the shires delivering some state-type services, but suggested that at present, they do not have the capacity to do so effectively. It noted the unsuccessful transfer of the Motor Vehicle Registry and the provision of recreation services to the Shire of Christmas Island:

We, in principle, do not have a problem with the councils taking on more services but we also have an obligation to make sure that the services provided are provided to the same standard and at a similar cost so that we can spread the dollars more effectively. For example, one of the areas that we had to unfortunately take back from [the Shire of Christmas Island] was the Motor [Vehicle] Registry. That function is still delivered on [Christmas] Island but it is delivered by the Commonwealth... it is just not possible for all services to be physically delivered in a remote location through a council.¹¹⁴

Committee comment

5.117 Most submitters to the inquiry who expressed a view on the cost of SDA claimed that not all arrangements represent value for money. A lack of alternative service providers may well limit the Commonwealth's scope to negotiate cost effective SDA. Furthermore, there is little incentive for WA agencies to deliver value for money services in the IOT as:

- Christmas Island and the Cocos (Keeling) Islands are not within their primary jurisdiction; and

112 Mr Stephen Clay, *Submission 41.1*, p. 2.

113 Mr Stephen Clay, *Submission 41.1*, p. 2.

114 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, p. 3.

- performance data for each WA agency is not currently publicly available (although DIRD intends to reintroduce annual performance reports in the coming months).
- 5.118 In response to an annual request to Parliamentary committees to identify audit priorities for Australian National Audit Office (ANAO) consideration and forward work program, the Committee has already identified the need for a detailed audit of SDA in the IOT. The ANAO included an audit of SDA in the IOT in the list of potential audits to be undertaken in 2015-16:
- Management of Service Delivery Arrangements with the Western Australian Government regarding the Indian Ocean Territories**
- ...An audit would examine the effectiveness of the Department's management of a selection of SDAs with Western Australian government agencies, including the coordination of services, monitoring of agreements, and evaluation of outcomes achieved under the SDAs.¹¹⁵
- 5.119 Noting that the list of potential audits is extensive, it seems unlikely that an ANAO audit of SDA in IOT will occur in 2015-16. However, given the broad stakeholder dissatisfaction with service delivery in the IOT, the Committee feels it's appropriate to also recommend in this report that the ANAO audit SDA between the Commonwealth and WA Government agencies.

Recommendation 15

The Committee recommends that the Australian National Audit Office examine Service Delivery Arrangements between the Commonwealth and Western Australian agencies to determine whether:

- services are coordinated effectively;
- agreements are adequately monitored; and
- outcomes achieve value for money.

- 5.120 However, the Committee is of the view that it will remain difficult to achieve value for money service delivery in the IOT under current governance and administration arrangements. Fundamental reform is

115 Australian National Audit Office, *Audit Work Program*, July 2015, p. 101.

required to achieve better outcomes and this is discussed in Chapter Seven.