

## Role of the Administrator

### Overview

- 6.1 Appointed by the Governor-General on the advice of the Government of the day, the Indian Ocean Territories (IOT) Administrator resides on Christmas Island and represents the Commonwealth Minister responsible for the IOT. Separate legislation (the *Christmas Island Act 1958* and *Cocos (Keeling) Islands Act 1955*) provides for the position on each territory, but current practice is to appoint one individual to both roles.<sup>1</sup>
- 6.2 Legislation underpinning the role does not expressly confer specific powers on the Administrator, rather, it authorises the Minister and the Governor-General to delegate authority as required:
- There shall be an Administrator of the Territory, who shall be appointed by the Governor-General by commission, to administer the Territory on behalf of the Commonwealth...
- The Administrator shall exercise his powers and perform his functions in accordance with any instructions given to him by the Minister.<sup>2</sup>
- 6.3 Over the years, different Ministers have tasked Administrators with different responsibilities. Mr Brian Lacy, Administrator from 2009-2012, identified a range of responsibilities that he assumed while in the role:

---

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

2 *Administrative Ordinance 1975 (CKI)*, s. 6; *Administrative Ordinance 1968 (CI)*, s. 6; Mr Brian Lacy, *Submission 39*, p. 8.

- assist in the development of an environmentally sustainable economy;
- assist in developing the capacity of the shire councils and local community organisations;
- assist the community to maximise opportunities in immigration activities on Christmas Island;
- promote social cohesion in Christmas Island and Cocos (Keeling) Islands; and
- act as an advocate for the residents of the territories.<sup>3</sup>

6.4 Current Administrator Mr Barry Haase, described a mandate of communication, consultation and ceremonial functions:

[The Minister's] direction to me was basically fourfold. It is primarily to assist in the underpinning of sustainable economic development [,] ...to report frequently back to the Minister regarding the current condition and the aspirations of the communities on both territories [,] ...to entertain visiting VIPs, dignitaries and groups such as yours...

The fourth is to chair various organisations. The significant one, of course, is the emergency management committee on both Cocos (Keeling) Islands and Christmas Island.<sup>4</sup>

6.5 Recent Administrators and the Department of Infrastructure and Regional Development (DIRD) agreed that the crux of the role lies in facilitating direct communication between the Minister responsible for the territories and the IOT community. Mr Julian Yates, a retired public servant with many years' experience in territories issues, described the Administrator's core communication function as:

- Represent[ing] the communities to the Australian Government and in particular the responsible Minister. An effective Administrator understands the issues and concerns of the community, noting that like most communities, there will be divergent views, and is able to articulate those to the Minister and influence policy.
- Represent[ing] the Australian Government to the communities. An effective Administrator is able to articulate the rationale for policy decisions by Government to the communities in ways that are meaningful to them. This can be an iterative process during policy development, although Cabinet confidentiality during policy development can inhibit full discussion.<sup>5</sup>

3 Mr Brian Lacy, *Submission 39*, p. 4.

4 Mr Barry Haase, Administrator, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 8.

5 Mr Julian Yates, *Submission 4*, p. 3.

- 6.6 In addition to responsibilities delegated by the Minister, formal powers are granted to the Administrator by legislative instruments, such as ordinance. For example, Mr Haase noted:

I have an ordinance that empowers me to conduct marriage ceremonies. I have an ordinance that empowers me to authorise the transportation of a dog to Christmas Island or to the Cocos (Keeling) Islands as a care dog. I have certain powers under the Poisons Act. I have limited powers under the land and tenancy acts.<sup>6</sup>

- 6.7 Recent Administrators have also been tasked with chairing the Indian Ocean Territories Regional Development Organisation and Emergency Management Committees on Christmas and the Cocos (Keeling) Islands.<sup>7</sup>
- 6.8 The Office of the Administrator has no dedicated staff. DIRD, the Commonwealth Department responsible for the territories, provides the Administrator with access to shared resources, including a personal assistant.<sup>8</sup>

## Chapter outline

- 6.9 This chapter examines the evolution of the Administrator's role from the practical day-to-day administration of the IOT to a position focused primarily on community consultation. It identifies a lack of clarity regarding the role of Administrator and considers the implications for Administrators trying to fulfil their obligations and for the IOT community. The chapter calls for the role and authority of the Administrator to be clarified to strengthen the Administrator's contribution to the region.
- 6.10 The chapter concludes with an examination of stakeholder views on longer term prospects for role of Administrator.

---

6 Mr Barry Haase, Administrator, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, pp. 7-7.

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

8 Mr Brian Lacy, *Submission 39*, p. 9.

## Devolution of Administrator role

6.11 In his submission to the inquiry Mr Yates noted:

In years past, Administrators have had much greater control of the administration of the islands, and indeed, administered!<sup>9</sup>

6.12 It appears that over time the responsibilities of the Administrator have devolved from the direct management of services in the 1980s such as health, education, law and order, and transportation<sup>10</sup> to a more consultative role described by DIRD as:

The position represents the Commonwealth..., explains the rationale for policies and initiatives, and provides advice to inform the Government's policy analysis and decisions on programmes and initiatives.

The Administrator is therefore a key channel of communication through which residents can inform the Commonwealth of their needs and influence decisions.<sup>11</sup>

6.13 Administrators past and present have suggested that the formal decision making powers historically vested in the Administrator are now routinely delegated to DIRD officials. Mr Lacy summarised:

The reality is that the Administrator's power has been subsumed by [DIRD].<sup>12</sup>

6.14 According to Mr Haase in relation to most matters he has no formal authority to make decisions:

I cannot instruct any of the administration staff on island to do anything. I can simply request that [DIRD] in Canberra might make those requests for change and, therefore, change an outcome.<sup>13</sup>

6.15 Mr Jon Stanhope, Administrator 2012 to 2014, made a similar observation:

---

9 Mr Julian Yates, *Submission 4*, p. 3.

10 Pacific Islands Development Program and Resource Systems Institute, *Cocos (Keeling) Islands: The Political Evolution of a Small Island Territory in the Indian Ocean*, 1987, p. 18; House Standing Committee on Legal and Constitutional Affairs, *Islands in the Sun: The Legal Regimes of Australia's External Territories and the Jervis Bay Territory*, March 1991, p. 61.

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

12 Mr Brian Lacy, *Committee Hansard*, Canberra, 12 November 2015, p. 13.

13 Mr Barry Haase, private capacity, *Committee Hansard*, Cocos (Keeling) Islands, 3 December 2015, p. 8.

The Cocos and Christmas Islands are administered almost entirely from Canberra by public servants within [DIRD]... In my time, the Administrator was not involved in any executive decision making apart from the few instances around the edges...<sup>14</sup>

- 6.16 Several submitters suggested that the formal authority of the Administrator was curtailed during a period when the position was vacant and public servants temporarily acted in the role.<sup>15</sup> The Shire of Christmas Island suggested that, during this period, formal powers previously held by the Administrator were reassigned to DIRD in the absence of an appointee:

In 2002 [DIRD] orchestrated the reassignment of the Minister's delegations from the Administrator to department officers. At that time it may have been necessary for certain delegations to be exercised by a public servant in the absence of an appointed Administrator. When a power vacuum occurs, all sorts of agencies scramble to fill it. That is what happened in 2002.<sup>16</sup>

- 6.17 Others suggested that the wind back of the Administrator's formal powers began as early as 1996 when the application of Western Australian (WA) law and local governments were introduced into the territories. Mr Yates said:

This role changed following the '*Islands in the Sun*' report by [the Joint Standing Committee on the National Capital and External Territories], which saw the introduction of local government on the islands, use of applied Western Australian state law and the effective removal of the Administrator's ability to administer.<sup>17</sup>

- 6.18 Further, the Committee heard evidence that DIRD does not always respond to community feedback relayed to it via the Administrator, despite describing the role as a 'key channel of communication'. Mr Lacy observed:

My door was always open, and people would come to me and speak to me directly, and I would either write to [DIRD] or speak

---

14 Mr Jon Stanhope, *Committee Hansard*, Canberra, 12 November 2015, p. 6.

15 Regional Development Australia Mid-West Gascoyne, *Submission 16*, p. 2; Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Christmas Island, 9 April 2015, p. 10.

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

17 Mr Julian Yates, *Submission 4*, pp. 3-4; The Hon Warren Snowdon MP, Member, Joint Standing Committee on the National Capital and External Territories, *Committee Hansard*, Canberra, 12 November 2015, p. 6.

to [DIRD] about those things, but, as I say, there was never a response to those requests or representations.<sup>18</sup>

6.19 Mr Stanhope claimed:

...the majority of my letters and representations on behalf of residents were ignored.<sup>19</sup>

## Need to clarify the Administrator role

6.20 As the inquiry commenced it quickly became apparent to the Committee that the responsibilities and formal decision making powers of the Administrator are not well understood in the IOT. Cocos (Keeling) Island resident, Mr Raymond Marshall summarised:

...I, like the majority of residents have little or no idea of what duties, responsibilities and powers... go with [the Administrator's] role.

...we have no clear understanding as to what the position entails in its present form.<sup>20</sup>

6.21 As an occupant of the role, Mr Haase explained the disconnect between community perception of the Administrator's authority and reality:

The perception of the community is, of course, that the Administrator is the supreme authority on the island and has the ear of the Minister, and therefore the actions of [DIRD] are subservient to the wishes of the Administrator. That is clearly demonstrated and expressed by members of the community on both Cocos and Christmas islands fairly constantly. Of course, nothing could be further from the truth, and there is an expressed level of frustration by the community when they are bewildered, confounded, by the reality of the relationship.<sup>21</sup>

6.22 It appeared to the Committee that no one, including DIRD, could describe the exact responsibilities or formal decision making powers vested in the position.<sup>22</sup> Mr Stanhope stated:

---

18 Mr Brian Lacy, *Committee Hansard*, Canberra, 12 November 2015, p. 10.

19 Mr Jon Stanhope, *Submission 2.1*, pp. 2-3.

20 Mr Raymond Marshall, *Submission 29*, p. 1.

21 Mr Barry Haase, Administrator, *Committee Hansard*, Canberra, 12 November 2015, p. 14.

22 Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Christmas Island, 9 April 2015, p. 10; Mr Aaron Bowman, Chief Executive Officer, Shire of

Despite having been Administrator of the IOT for two years I never knew explicitly what my powers were or what the role involved.<sup>23</sup>

- 6.23 Mr Stanhope argued that appointees cannot fully understand the parameters of the position because they cannot access information about their formal decision making powers. He claimed that despite requests when he occupied the role, DIRD failed to provide him with a list of the powers delegated to the Administrator:

I imagined, as one does, that when I arrived in the [Administrator's] position there would be a detailed brief; there was not. I understood that perhaps I would receive a list of the delegations that were pertinent to the position, but I did not. I asked for that, of course, and I was fobbed off. I raised it again and was told that the delegations register was not in an order. This is an issue that I pursued in the two years that I was there. Not once in two years, despite requests from me, was I ever advised of a single delegation which the office of Administrator held. Not once! I still do not know.<sup>24</sup>

- 6.24 Further, Mr Stanhope said that at his request, the Minister responsible for the territories obtained legal advice from the Australian Government Solicitor describing the exact parameters of the role.<sup>25</sup> However, a copy of the full advice was never released, despite numerous requests:

We have a quite bizarre circumstance where the Administrator of an Australian territory can request of a Minister legal advice explaining his remit, the Minister in faith to the request commissions the advice, the advice is received that sets out... explicitly what the role of the Administrator is, and then the Commonwealth chooses not to provide the person, about whom the advice was written and requested, with a copy of the advice.<sup>26</sup>

- 6.25 Mr Stanhope claimed:

---

Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, pp. 2-3; Mr Jon Stanhope, *Committee Hansard*, Canberra, 12 November 2015, p. 3; Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra 14 May 2015, p. 7.

23 Mr Jon Stanhope, *Submission 2.1*, p. 2.

24 Mr Jon Stanhope, *Committee Hansard*, Canberra, 12 November 2015, p. 3.

25 Mr Jon Stanhope, *Committee Hansard*, Canberra, 12 November 2015, pp. 3-4.

26 Mr Jon Stanhope, *Committee Hansard*, Canberra, 12 November 2015, pp. 1-2.

It was never an explicit denial; it was just that [the legal advice] never arrived.<sup>27</sup>

- 6.26 Community confusion regarding the role of the Administrator may arise from the lack of publically available information about the evolving responsibilities and authority of the position. DIRD's website offers minimal information about the role of the Administrator, stating only:

An Administrator, appointed by the Governor-General, represents the Minister in the [IOT] and resides on Christmas Island.<sup>28</sup>

- 6.27 The DIRD website contains no information on the current Administrator either.<sup>29</sup>

- 6.28 Witnesses called for the Administrator's responsibilities and formal decision making powers to be clarified. Mr Haase argued that appointees should be provided with definitive responsibilities and formal decision making powers, and that these should be communicated to the community:

It is the most simple of problems. One as an Administrator simply needs to be instructed specifically as to what the role is, but those instructions need to be tested in a practical way so that the Minister is aware, [DIRD] is aware and the community is aware of the implications of that laid-down regime. That is not the case presently. It does not come close to being the situation presently. And that of course is the source of frustration.<sup>30</sup>

- 6.29 The Commonwealth Ombudsman suggested that clarifying the role would support more realistic community expectations of appointees:

...it appears that the community's expectations of the Administrator's ability to influence change are not consistent with the Administrator's formal role. In our view, the role of the Administrator in community consultation should be better articulated by DIRD to increase the understanding of affected groups within the community.<sup>31</sup>

---

27 Mr Jon Stanhope, *Committee Hansard*, Canberra, 12 November 2015, p. 3

28 Department of Infrastructure and Regional Development, *Territories of Australia*, <http://regional.gov.au/territories/>, viewed 14 January 2016.

29 Department of Infrastructure and Regional Development, *Territories of Australia*, <http://regional.gov.au/territories/>, viewed 14 January 2016.

30 Mr Barry Haase, Administrator, *Committee Hansard*, Canberra, 12 November 2015, p. 14.

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



- 6.30 Evidence also suggested that clarifying the role of the Administrator could reduce bureaucratic duplication in the territories. Mr Aaron Bowman, Chief Executive Officer of the Shire of Cocos (Keeling) Islands suggested that there were crossovers between his responsibilities and those of the Administrator:

I do not know what I am here for, and I do not know what my Shire President is here for. Two of the four points that the Administrator pointed out are in my [Key Performance Indicators] KPIs—economic development is a major part of my role. And looking after dignitaries and VIPs—meeting with them, even to the point of wining and dining, albeit on a low budget—is normally the shire president's role as well. I see there is a lot of crossover. I have not got time and I have not got money to waste on crossovers; we either need to get on the same bus, or separate those roles.<sup>32</sup>

### Committee comment

- 6.31 From evidence presented to the Committee it appears that the authority of the Administrator has diminished over time. Formal decision making delegations once conferred on appointees are now routinely delegated to public servants. The Commonwealth now appears to view the Administrator as a conduit for communication, providing information from the Minister, often via the Department, to the community and vice versa. However, there is no obligation for the Department to respond to feedback provided by appointees.
- 6.32 It is the Committee's firm view that the Administrator should receive instruction from and report directly to the Minister for Territories, rather than indirectly, through the Department. This relationship and its reportable responsibilities should be formalised. In this context, a list of delegations should properly reflect this relationship.
- 6.33 There is also evidence that the Administrator's role is a source of confusion and frustration. It appears that the community still considers the Administrator an authority, able to direct decision making. However, the actual extent of the authority of the Administrator is unclear with appointees unable to access detailed information about their formal powers.

---

32 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 10.

- 6.34 The Committee understands that in 2013 the Australian Government Solicitor provided DIRD with legal advice regarding the role of the Administrator. The Committee has been provided with a copy of this advice from the Minister for the Territories. In accordance with a request for the advice to be kept confidential the Committee has not authorised the document for publication. However, without commenting on the specific content, the Committee makes the following general observations about the nature of the advice provided:
- the advice described the mechanisms by which authority under Commonwealth or WA legislation and ordinance can be delegated to the Administrator, or to public servants, in relation to the IOT; and
  - the advice did not identify specific powers vested in, or delegated to the Administrator or public servants, but made reference to work commenced by DIRD to identify and document these powers and delegations.<sup>33</sup>
- 6.35 Correspondence also received by the Committee suggests that the work commenced by DIRD to identify and document all powers vested in or delegated to the Administrator has not progressed to completion. It appears that clarification is still needed now as much as ever to improve the Administrator's capacity to exercise his authority appropriately and to fulfil the obligations of the role.
- 6.36 To this end it is essential that all decision making powers conferred to the Administrator or to public servants in relation to the IOT are identified. The Committee recommends that DIRD undertake this work as a priority with a view to providing appointees to the position of Administrator with a detailed description of their responsibilities and formal decision making powers. The community should also have access to general information about each appointee and their responsibilities in relation to the community, particularly as appointees and the parameters of the role change.

---

33 Australian Government Solicitor, *Legal Advice on the Functions of the Administrator of the Indian Ocean Territories*, 23 November 2013. (Confidential Document).

### **Recommendation 16**

**The Committee recommends that the Department of Infrastructure and Regional Development, as a priority, identify all delegated and legislated powers vested in the Administrator, or departmental officials, for the governance and administration of the Indian Ocean Territories. This information should be contained in a register that is maintained and updated regularly to ensure currency.**

### **Recommendation 17**

**The Committee recommends that the Minister for Territories provide the current Administrator and future Administrators with formal advice about their reportable responsibilities and a list of all legislated and delegated powers vested in the role. If, as a result of this undertaking, additional responsibilities are identified that attach to the role of the Administrator, these should be supported by a secondment of staff from the Department of Infrastructure and Regional Development.**

**The Department should also maintain publicly available information about the role of the Administrator, including readily accessible information on their responsibilities and decision making powers in relation to the governance and administration of the Indian Ocean Territories.**

## **Future of the Administrator role**

- 6.37 During the inquiry a range of views were expressed on the future of the Administrator role, from suggestions that the role should be abolished altogether to suggestions that the role should be strengthened with expanded decision making powers and delegations.
- 6.38 As noted, some submitters to the inquiry have advocated for the abolition of the Administrator role, on the basis that the role is anachronistic and undemocratic. For example, Mr John Sorensen, a business man with long standing interests in Christmas Island, said:

The appointment by Government of an Administrator, [in] my opinion, is a left-over from the old British Colonial era where

'directives' now come from Canberra with no say for the residents of Christmas Island and Cocos Islands.<sup>34</sup>

- 6.39 Cocos (Keeling) Islands' Councillor, John Clunies-Ross and Christmas Island Arts and Culture Chairperson, Ms Patricia Power argued that the appointment of an Administrator is undemocratic, noting that appointees are selected by the Governor-General on the advice of the government of the day. Councillor Clunies-Ross said:

It is not a democratic appointment. It is a political appointment. It is the party that appoints Barry [Haase]. And it is not a democratic process. So, when this party changes and we get the other guys in, sure as boots is boots he will be gone and we will get someone else in there.<sup>35</sup>

- 6.40 The Christmas Island Women's Association (CIWA) argued that the Administrator role became obsolete when local government was introduced to the IOT. It asserted that the responsibilities and decision making powers of the Administrator should be reassigned to democratically elected local government representatives:

The view of the CIWA is that the role of the Administrator could possibly be considered as unnecessary or obsolete. As an alternative, the local government Shire President could perhaps be given increased capacity to serve as both, a representative of the Minister and of local government. This would seem more appropriate, considering he or she has been elected by the local community to represent the local community, whereas the Administrator has not. We wish [that the] government [would] explore how a local government Shire President's role could possibly be extended to include the role of an Administrator.<sup>36</sup>

- 6.41 The CIWA also suggested that abolishing the Administrator would achieve budget efficiencies:

The unnecessary cost of maintaining any ineffective Administrators on Christmas Island could be better spent on

---

34 Northern Bay Ptd Ltd, *Submission 18*, p. 2.

35 Councillor John Clunies-Ross, Shire of Cocos (Keeling) Island, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 31; Ms Patricia Power, Chairperson, Arts and Culture Christmas Island, *Committee Hansard*, Christmas Island, 9 April 2015, p. 26.

36 Christmas Island Women's Association, *Submission 8*, p. 2.

making local government shire services more efficient and effective.<sup>37</sup>

- 6.42 Councillor Clunies-Ross was of the view that the position of Administrator should only be retained until the IOT transitions into a longer-term governance solution, such as a 'close association' with Australia.

In covering the role of the Administrator, if we are going to go to close association, I can see the minder, the babysitter, for that process as the Administrator... If the Administrator is charged with that authority, he should stay with a job pretty much unless the locals vote him out. He will stay there through Government changes. ...as things devolve or move, the Administrator should act as a circuit breaker, be able to sign off on temporary issues until such time as new legislation comes in or if there is a hole or a gap in legislation.

...I do not see that the position is tenable past that. And then the authority would devolve to whatever is evolved during this process.<sup>38</sup>

- 6.43 In contrast to those calling for the abolition of the role, other witnesses argued that decision making powers and responsibilities of the Administrator should be increased to incorporate day-to-day administration and service delivery in the IOT.<sup>39</sup>

- 6.44 The Shire of Cocos (Keeling) Islands argued that the Administrator's local knowledge positions appointees to negotiate better value for money Service Delivery Arrangements (SDA):

If the federal government wants to get value for money for their SDAs, the Administrator needs to be involved. In my opinion, it is not working at the moment on a number of these SDAs, and quite frankly I am disgusted with the amount of waste that occurs.<sup>40</sup>

---

37 Ms Regine Andersen, Secretary, Christmas Island Women's Association, *Committee Hansard*, Christmas Island, 9 April 2015, p. 2.

38 Councillor John Clunies-Ross, Shire of Cocos (Keeling) Island, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 29.

39 Mr Rahmat Madi Signa, *Submission 12*, p 1; Chinese Literary Association of Christmas Island, *Submission 3*, p. 3; Mr Brian Lacy, *Submission 39*, p. 5; Mr Zainal Abdul Majid, President, Christmas Island Islamic Council, *Committee Hansard*, Christmas Island, 9 April 2015, p. 17.

40 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, pp. 4-5.

- 6.45 Some IOT residents suggested that expanding the decision making powers of the Administrator would result in governance and administrative decisions better aligned with community aspirations. Mr Rahmat Madi Signa, a former resident of the Cocos (Keeling) Islands who now resides in WA, summarised:

The devolution of decision making powers to the Administrator can be beneficial to the Cocos Islanders with the possibility of the position being more balanced due to the localised nature of the role, giving more insight on issues within the community...

I support a recommendation that stronger decision making powers be delegated to the Administrator, which includes prescribed minimum days be spent on [CKI] so that the position has full awareness of the local issues and is able to provide reliable information on policy developments to the Minister.<sup>41</sup>

- 6.46 The Chinese Literary Association of Christmas Island said that increasing the Administrator's powers would enable a broader range of community organisations to contribute to decision making:

It may be good if the Administrator who is on island can have more powers to make decisions. Right now lots of decision making comes from the bureaucrats in Canberra who rely on certain groups who frequently write to them but not the majority who hardly correspond with Canberra, not that they do not want to, but don't know how.<sup>42</sup>

- 6.47 Mrs Danie Olbio, Secretary of the Persatuan Kebudayaan Pulu Kokos (Cocos (Keeling) Islands Cultural Group) suggested that appointing a separate Administrator for each territory would further ensure residents' views informed decision making.<sup>43</sup>

- 6.48 Phosphate Resources Limited asserted that empowering the Administrator with the authority to direct service delivery and policy development in the IOT would improve residents' confidence in governance:

... the Administrator ought to be clothed with the authority of a Deputy Secretary of the relevant Department [DIRD]. They should have the authority, on behalf of the Minister, to administer

---

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

42 Chinese Literary Association of Christmas Island, *Submission 3*, p. 3.

43 Mrs Danie (Nek Namira) Olbio, Secretary, Persatuan Kebudayaan Pulu Kokos, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2013, p. 2.

the activities of the officers in that Department engaged in the provision of services and policy development in respect of the [IOT].

In practice this would give the Administrator direct line responsibility for the Perth and [Christmas] Island staff and a direct role in policy development by the Canberra contingent of the relevant Department...

It is also our opinion that the local community would also have more confidence in the operations of government if the principal representative of the government (the Administrator) had more authority to directly act on their behalf.<sup>44</sup>

- 6.49 Mr Lacy and Mr Haase suggested that the Administrator is better placed to set strategic budget priorities for the IOT, than public servants on the mainland because appointees reside in the territories.<sup>45</sup> Mr Haase said:

This comes back to the powers of the Administrator to authorise, prioritise and direct the spending of capital funds on both territories. Many dollars have been spent on projects that today are worthless. [Public servants] rely on a convoluted process of departmental analysis of the results of purchased advice from consultants that know nothing about what they are consulting about. The advice is taken, the investment is made and down the track the commodity is established. It is usually five years too late, is inappropriate and is considered to be a white elephant.<sup>46</sup>

- 6.50 However, not all were supportive of increasing the Administrator's authority to direct budgets and administer expenditure. The Malay Association of Christmas Island questioned the fairness of empowering an unelected government official to direct the administration of territories communities:

If this person were to be given more decision making powers that would give a single unelected Commonwealth official power as opposed to assumedly several faceless Department public servants.

Whilst it might speed up decision making, it poses some questions on democracy and fairness.

---

44 Mr Kevin Edwards, Chief Operating Officer and Company Secretary, Phosphate Resources Limited, *Committee Hansard*, Canberra, 26 March 2015, p. 1; Phosphate Resources Limited, *Submission 1*, p. 1.

45 Mr Brian Lacy, *Submission 39*, pp. 10-11.

46 Mr Barry Haase, Administrator, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 9.

How would the Administrator use his newfound powers to come to conclusions about what to fund, commit to and support in the [IOT]?<sup>47</sup>

- 6.51 Christmas Island resident, Mr Kelvin Matthews referred to the lack of state government representation in the IOT and argued that a more powerful Administrator would exacerbate this representational anomaly:

We believe there is a lack of representation. Christmas Islanders are currently subject to applied legislation from WA, yet they have no say in the WA Parliament. We believe this fails the basic test of representative democracy...

We do not believe the Administrator should be taking a stronger decision-making role... He or she acts as appointed, as a representative of the Commonwealth to the island and not a representative of the island to the Commonwealth. Increasing its decision making power would only exacerbate the existing governance issues.<sup>48</sup>

- 6.52 Mr Julian Yates noted that enabling the Administrator to set budget priorities or manage SDA may create accountability issues:

...APS officers... operate under the Australian Government's financial framework and rules and are, at senior levels, accountable to Senate Estimates Committees for the expenses. The question of accountability is probably the major impediment to simply transferring some or all of the funds to the Administrator... [could the] Administrator (who is not an APS officer and not subordinate to the Department's Secretary)... be questioned at Estimates. I do not know the answer to this...<sup>49</sup>

- 6.53 Furthermore, the Christmas Island Tourism Association and Mr Lacy noted that the Office of the Administrator would require further resources if the responsibilities of the position were enhanced.<sup>50</sup>

## Committee comment

- 6.54 Community views on the future of the Administrator role are diverse and contradictory. Some stakeholders view the role as 'undemocratic' and

47 Malay Association of Christmas Island, *Submission 24*, p. 2.

48 Mr Kelvin Matthews, private capacity, *Committee Hansard*, Christmas Island, 9 April 2015, pp. 39-40.

49 Mr Julian Yates, *Submission 4*, p. 5.

50 Mr Brian Lacy, *Submission 39*, p. 10; Christmas Island Tourism Association, *Submission 26*, p. 6.



therefore untenable. Others claimed that expanding the Administrator role to directing budget priorities and service delivery would result in better value outcomes, more closely aligned with community aspirations.

- 6.55 Given the range of community views on future of the role, and the lack of information on the formal authority already vested in or delegated to the Administrator, the Committee stops short of making specific recommendations to formally extend the role to include greater involvement in budget setting and service delivery.
- 6.56 Rather, the Committee considers that its earlier recommendations to clarify the extent of powers vested in or delegated to the Administrator, and the introduction of a formal consultation protocol with clear delineations of responsibility and mechanisms for accountability, taken together, will achieve better outcomes for the IOT without the need to formally extend the authority of the Administrator.
- 6.57 However, the Committee recognises that substantial improvements to the economic viability, environmental sustainability and social fabric of the IOT are only likely to occur if the current system of governance and administration undergoes fundamental reform. Such reform would have significant implications for the role of Administrator. If fundamental reform were to be pursued it is conceivable that in the short term the Administrator would perform functions to support transition. In the longer term, if governance reform were to normalise arrangements in the IOT, then it is likely that the Administrator role would become obsolete.
- 6.58 Reform of IOT governance arrangements is the subject of the next chapter of this report.

