

The Parliament of the Commonwealth of Australia

Governance in the Indian Ocean Territories

Final report: Economic Development and Governance

March 2016
Canberra

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Chair's foreword

In my foreword to the interim report for this inquiry I observed that economic development, governance arrangements and service delivery in the Indian Ocean Territories (IOT) have long presented complex challenges. Inquiries by this Committee and others have highlighted these problems and made recommendations for improvement. Yet it seems that change, when it has occurred, has not always been for the better or necessarily benefited IOT residents.

The interim report put aside the substantive consideration of governance arrangements, in order to focus on some aspects of economic development that evidence indicated could kick-start the local economy. This second and final report considers other measures that can enhance economic activity in the IOT, and addresses long standing issues with service delivery and governance.

In assessing what else is needed to stimulate economic activity in the IOT the report focuses first on additional supports to increase tourism through further promotion of the IOT as a unique destination, and capacity building assistance for the IOT tourism associations. Consideration is next given to enhancing the role of the IOT Regional Development Organisation to better support economic growth and diversification. Also, to build investor confidence and encourage appropriate development, the Committee makes recommendations to improve land management, identifying the need to conduct a detailed geological survey on Christmas Island, as a priority, along with clarifying the operation of the land trust on the Cocos (Keeling) Islands.

Dissatisfaction with the management of service delivery was evident to me and others when the Committee visited the IOT in April 2015. Residents' expressed

concern that the fire and emergency services on Christmas Island were in jeopardy when the existing service delivery arrangement was about to expire and a new arrangement had not been negotiated. The Committee makes recommendations to improve consultation with the community on service delivery arrangement negotiations, and to increase transparency and accountability.

Turning to governance, it is essential to clarify the role and responsibilities of the Administrator, including outlining specified delegations. It became clear that over time the duties and functions undertaken by successive Administrators have differed. In order to achieve the Commonwealth responsibilities, it appears that the Department of Infrastructure and Regional Development has taken over more and more of the responsibilities that traditionally belonged to the Administrator. Administrators without a clear list of responsibilities and officials trying to fill a void of uncertainty has resulted in increasing uncertainty over who is responsible and for what. This is both for the Administrators and for the communities in the IOT.

Most recommendations in this report seek to improve the current economic situation and governance system. However, the Committee has reached the view that significant improvement will not be achieved without fundamental governance reform. The final chapter of the report examines options for reform, including incorporation of the IOT into an Australian state or territory. Although this Committee is not the first to suggest that governance of the IOT should be normalised in this way, it is more than two decades since this proposal was last seriously considered.


There is no doubt that political will from the Commonwealth, and an interested state or territory government, together with an ongoing financial commitment from the Commonwealth, will be required to bring about reform of this magnitude. Importantly also, extensive consultation with residents of the IOT and other relevant parties will be crucial to determine whether incorporation into a state or territory is the most appropriate way of achieving a stronger foundation and new strategic direction for the IOT.

It is difficult to foresee the IOT ever achieving a level of self-sufficiency but the Committee was determined to examine governance and economic options that would make the delivery of services as cost effective as possible. The IOT are remote communities with high fixed costs but opportunities and efficiencies in the

areas of governance, economy and administration can be achieved, and the determination of the Committee drove the recommendations in both reports.

I would like to thank everyone who has contributed to the Committee's inquiry. In particular, I thank the residents of the IOT for sharing their views and experiences again, as many have over the years on long standing issues. I also express my thanks to the current Administrator, Mr Barry Haase, for his assistance in facilitating the Committee's 2015 visit to the IOT, as well as former Administrators and retired public servants for their valuable insights.

Mr Luke Simpkins MP
Chair



Membership of the Committee

Chair Mr Luke Simpkins MP

Deputy Chair Senator Carol Brown

Members

Senator Chris Back	The Hon Bronwyn Bishop MP (from 20/08/15)
Ms Gai Brodtmann MP	Senator Katy Gallagher (from 26/03/15)
Mrs Natasha Griggs MP (until 20/08/15)	Senator Sarah Hanson-Young
Senator Gavin Marshall (from 7/07/14)	Senator Zed Seselja
The Hon Bruce Scott MP	The Hon Warren Snowdon MP
Mr Ross Vasta MP	

Committee secretariat

Secretary	Dr Alison Clegg
Inquiry Secretary	Ms Sara Edson
Research Officer	Ms Samantha Leahy
Administrative Officer	Mrs Fiona McCann



Terms of reference

The Committee will inquire into and report on the interaction between formal institutions and the Indian Ocean communities, reviewing:

- the role of the Administrator and the capacity (and appropriateness) of the Administrator taking on a stronger decision-making role;
- existing consultation mechanisms undertaken by government representatives, including the IOT Regional Development Organisation, and best practice for similar small remote communities' engagement with Australian and state governments;
- local government's role in supporting and representing communities in the Indian Ocean Territories; and
- opportunities to strengthen and diversify the economy, whilst maintaining and celebrating the unique cultural identity of the Indian Ocean Territories.



Abbreviations

ACT	Australian Capital Territory
AHA	Australian Healthcare Associates
ANAO	Australian National Audit Office
ASP	Aussie Specialist Program
ATDW	Australian Tourism Data Warehouse
ATE	Australian Tourism Exchange
CCC	Community Consultative Committee
CI	Christmas Island
CINC	Christmas Island Neighbourhood Centre
CIMP	Christmas Island Management Plan
CITA	Christmas Island Tourism Association
CIWA	Christmas Island Women's Association
CKI	Cocos (Keeling) Islands
CKITA	Cocos (Keeling) Islands Tourism Association
CLACI	Chinese Literary Association of Christmas Island
CLMP	Crown Land Management Plan

CPD	Commonwealth Property Disposal Plan
DIBP	Department of Immigration and Border Protection
DIRD	Department of Infrastructure and Regional Development
FOI	Freedom of Information
IOGTA	Indian Ocean Group Training Association
IOT	Indian Ocean Territories
IOTA	Indian Ocean Territories Administration
JSCNCET	Joint Standing Committee on the National Capital and External Territories
MACI	Malay Association of Christmas Island
MINTOPE	Mining to Plant Enterprises Project
NSW	New South Wales
NT	Northern Territory
PRL	Phosphate Resources Limited
RDA	Regional Development Australia
RDO	Regional Development Organisation
SDA	Service Delivery Arrangements
TA	Tourism Australia
TRA	Tourism Research Australia
WA	Western Australia



Recommendations

2 Tourism

Recommendation 1

The Committee recommends that the Department of Infrastructure and Regional Development require air carriers to the Indian Ocean Territories to distribute a visitor information card to all passengers for the purpose of collecting visitor data. The completed cards will be deposited in a marked box at the airport arrival terminals on Christmas Island and West Island for collection by the Christmas Island and Cocos (Keeling) Islands Tourism Associations.

Recommendation 2

The Committee recommends that the Department of Infrastructure and Regional Development negotiate a Service Delivery Arrangement, in consultation with the Christmas Island and Cocos (Keeling) Islands Tourism Associations, to facilitate access to tourism support services provided by Tourism Western Australia.

Recommendation 3

The Committee recommends that the relationship between Tourism Australia and the Indian Ocean Territories tourism associations be formalised. The formalised arrangement should include provision for Tourism Australia to build capacity, including promotion and marketing expertise, in the Christmas and Cocos (Keeling) Islands Tourism Associations. This could include secondment placements and mentoring opportunities.

Recommendation 4

The Committee recommends that the Department of Infrastructure and Regional Development exempt airline operators that are interested in providing scheduled international flights to Christmas Island from landing and security fees for an initial operational period of 12 months.

3 Regional Development Organisation and Mining to Plant Enterprises Project

Recommendation 5

The Committee recommends that the Department of Infrastructure and Regional Development review the scope, structure and functions of the Regional Development Organisation and publish the outcomes of the review on the Department's website.

If the review reveals that the organisation has merit in continuing, dedicated funding should be provided to support its scope, structure and functions.

4 Land management and development

Recommendation 6

The Committee recommends that the Department of Infrastructure and Regional Development, as a priority, commission a comprehensive geological survey on Christmas Island to inform land development and responsible water management.

The Department of Infrastructure and Regional Development should explore the options to share the cost of the survey with Phosphate Resources Limited.

Recommendation 7

The Committee recommends that the Department of Infrastructure and Regional Development engage a legal specialist to review the land trust on the Cocos (Keeling) Islands to determine legal ownership and control of all land with a view to reforming or replacing it.

New arrangements must be informed by agreement with trust beneficiaries, define the responsibilities and obligations of trustees to the people of the Cocos (Keeling) Islands, and subject to probity considerations, enable land to be leased or sold in support of economic development.

Recommendation 8

The Committee recommends that the Department of Infrastructure and Regional Development, as a priority, develop a Crown land management framework for the Indian Ocean Territories.

The Crown land management framework, including the updated Crown Land Management Plan and the Commonwealth Assets Management Plan, should be published on the Department's website, and a package of information made available to potential investors. The Crown land management framework should make clear the principles governing the release of Crown land, and the process that developers need to follow to lease and purchase available Crown land.

Recommendation 9

The Committee recommends that the Department of Infrastructure and Regional Development investigate whether Crown land disposal ordinances are warranted to facilitate the lease and sale of Crown land in the Indian Ocean Territories.

If Crown land ordinances are warranted, they should be established without delay.

Recommendation 10

The Committee recommends that the Department of Infrastructure and Regional Development transfer, on a long-term lease basis, the following Crown land assets on West Island to the Shire of Cocos (Keeling) Islands for development:

- the four commercially zoned parcels on Emden Walk;
- the Light Industrial Area bounded by the Sydney Highway, Fremantle Road and Alexander Street; and
- the land suitable for retail at lot 193 William Keeling Crescent.

5 Service Delivery Arrangements

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.

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.

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.

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.

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.

6 Role of the Administrator

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.

7 Governance reform

Recommendation 18

The Committee recommends that the Australian Government, in consultation with the shires, undertake a review of local government in the Indian Ocean Territories to determine if there is scope to streamline and amalgamate some functions.

Recommendation 19

The Committee recommends that the Australian Government seek formal advice from the Governments of Western Australia and the Northern Territory to determine whether they are receptive to the proposal for incorporation of the Indian Ocean Territories into their State or Territory.

Based upon a positive response to this proposal, the Australian Government should develop an incorporation model for consultation and review.



Introduction

Referral and terms of reference

1.1 On 4 March 2015, then Minister for Infrastructure and Regional Development, the Hon. Jamie Briggs MP, referred an inquiry into governance arrangements in the Indian Ocean Territories (IOT) – Christmas Island and the Cocos (Keeling) Islands – to the Joint Standing Committee on the National Capital and External Territories (JSCNCET). Under the inquiry’s terms of reference the Committee was asked to consider:

- the role of the Administrator;
- consultation mechanisms and best practice for engagement with smaller remote communities;
- local governments’ role; and
- opportunities to strengthen and diversify the economy.¹

1 See Joint Standing Committee on the National Capital and External Territories website for full terms of reference, http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Capital_and_External_Territories/Indian_Ocean_Territories/Terms_of_Reference

Interim report

- 1.2 The Committee decided to produce an interim report that, initially, put aside consideration of governance arrangements, and instead, focused on economic development.
- 1.3 The Cocos (Keeling) Islands have long had a static and small economy. By contrast, Christmas Island has experienced a 'boom and bust' cycle over the years. A recent decline in immigration detention activity on Christmas Island and ongoing concerns about the longer-term sustainability of the Christmas Island Phosphate Mine (the island's economic mainstay) call for alternative economic drivers.²
- 1.4 The Committee agreed to concentrate on a few measures it believes have the potential to stimulate the IOT economy relatively quickly and could have a multiplier effect.
- 1.5 The Committee's interim report, *Governance in the Indian Ocean Territories – Interim report: Economic Development*, tabled on 23 June 2015, contained three recommendations centring on:
- establishing a policy, legislative and regulatory framework that facilitates the reopening of the Christmas Island casino, and conducting an appropriate process to assess proposals from private sector proponents;
 - allowing Christmas Island District High School to accept fee-paying international students again; and
 - a sea freight service that offers more regular and affordable shipping.³
- 1.6 The interim report also highlighted the Mining to Plant Enterprises project (MINTOPE) which has been successfully trialling agriculture on exhausted mining lease land on Christmas Island. The Committee outlined the project's significant achievements to-date, and the prospects for developing economically viable crops and businesses into the future.⁴
- 1.7 The interim report is available from the Committee website.⁵

2 Joint Standing Committee on the National Capital and External Territories, *Governance in the Indian Ocean Territories – Interim Report: Economic Development*, June 2015, pp. 2-3.

3 Joint Standing Committee on the National Capital and External Territories, *Governance in the Indian Ocean Territories – Interim Report: Economic Development*, June 2015, p. 6.

4 Joint Standing Committee on the National Capital and External Territories, *Governance in the Indian Ocean Territories – Interim Report: Economic Development*, June 2015, pp. 37 – 45.

5 Joint Standing Committee on the National Capital and External Territories, *Governance in the Indian Ocean Territories – Interim Report: Economic Development*, <http://www.aph.gov.au/>

Scope of this report

- 1.8 The interim report noted that a subsequent report, drawing on analysis of existing and additional evidence, would address some of the more complex economic and governance challenges. On the economic front this includes consideration of land management, development and strategies to increase yield from tourism.
- 1.9 As external territories Christmas and the Cocos (Keeling) Islands are administered by the Commonwealth, with the Department of Infrastructure and Regional Development (DIRD) and the Minister for the territories having overall responsibility. Arrangements with the Western Australian (WA) Government provide state-type services.⁶
- 1.10 The Committee has already acknowledged residents' ongoing frustration with the unique governance and administrative arrangements in the IOT, including:
- not having political representation in the WA Parliament, despite the broad application of WA laws;
 - inadequate or ineffective consultation mechanisms at all levels of government;
 - a widely-held view that decisions are made by bureaucrats in Perth and Canberra with little transparency and accountability to the IOT communities; and
 - many layers of bureaucracy and unclear delineations of responsibility in the system.⁷
- 1.11 In its interim report the Committee referred to a range of recurrent issues including:
- the scheduling and regularity of air services to the IOT;
 - the need for dedicated aged care facilities;
 - a shortage of affordable housing;
 - the difficulties of obtaining property insurance;

Parliamentary_Business/Committees/Joint/National_Capital_and_External_Territories/Indian_Ocean_Territories/Interim_Report

6 Department of Infrastructure and Regional Development, *Territories of Australia*, <http://regional.gov.au/territories/>, viewed 11 December 2015.

7 Joint Standing Committee on the National Capital and External Territories, *Governance in the Indian Ocean Territories – Interim Report: Economic Development*, June 2015, pp. 37 – 45.

- improving telecommunications; and
 - dealing with waste management and coastal erosion.⁸
- 1.12 All of the above topics, have at some point, been the subject of successive inquiries and reports by the JSCNCET and others.
- 1.13 There is a palpable feeling amongst stakeholders that recommendations for improvement by the Committee and others have largely been ignored. As a result little really changes.
- 1.14 The interim report alluded to the high per capita spend involved in delivering services to the IOT.⁹ In this report the Committee intends to continue its focus on generating more economic activity in the short to medium term. The Committee will also concentrate on improving the lines of responsibility in the IOT and determining the best and most effective way in which services can be delivered.
- 1.15 Looking to a longer-term solution, the Committee will explore reforming the higher level governance arrangements of the IOT (including by incorporating them into a state or territory).
- 1.16 At the Committee's first hearing on Cocos (Keeling) Islands, the Chair said:
- ...it is certainly our intention to create a report that is not just going to just be the latest in a line of recommendations that nothing ever happens on.¹⁰

Conduct of the inquiry

- 1.17 The interim report outlined the Committee's inquiry process to June 2015. This included listing the number of submissions received and public hearings to that point, including those held on Cocos (Keeling) and Christmas Islands, which the Committee visited in April 2015. In addition

8 Joint Standing Committee on the National Capital and External Territories, *Governance in the Indian Ocean Territories – Interim Report: Economic Development*, June 2015, p. 2.

9 Joint Standing Committee on the National Capital and External Territories, *Governance in the Indian Ocean Territories – Interim Report: Economic Development*, June 2015, Chair's foreword.

10 Joint Standing Committee on the National Capital and External Territories, Chair, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 33.

to hearings, that visit encompassed a range of inspections and interactions with IOT residents, including the taking of community statements.¹¹

- 1.18 Subsequent to the interim report, the inquiry received a further 14 submissions. Fifty-three submissions were received in total. A list of all submissions and other documentary evidence¹² is at Appendix A.
- 1.19 Eight further hearings were held in Canberra. The Committee held 14 hearings throughout 2015 and heard from a diverse array of stakeholders including Commonwealth officers, local governments, former and the current Administrators, business owners, community groups and residents. Details of all hearings and witnesses are listed at Appendix B. The transcripts of the hearings are available from the Committee website.¹³

Report outline

- 1.20 The report commences with three chapters on economic development.
- 1.21 Chapter Two on tourism will cover some of the barriers to tourism growth and the need to further promote and market the IOT as a travel destination. The chapter will re-examine the view that establishing air services to the north i.e. Asia is important for increasing visitors. This is something that could be more economically viable if the Committee's recommendation to facilitate the reopening of the casino is adopted.
- 1.22 Chapter Three assesses the contribution of the Regional Development Organisation (RDO), most notably in relation to community grants that fund the MINTOPE project on Christmas Island. MINTOPE's successes have shown that different crops can be produced, potentially commercially on Christmas Island. There is currently a proposal to commence trials growing medicinal cannabis. Calls for changes to the RDO to increase its effectiveness are considered.
- 1.23 Chapter Four focuses on issues surrounding land management, which some argue, underpins all development. There is a need to prioritise water mapping on Christmas Island, modernise the land trust on the Cocos

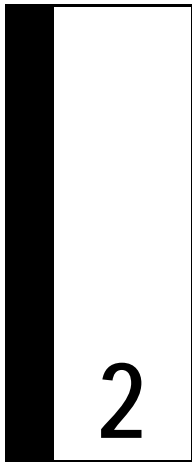
11 Joint Standing Committee on the National Capital and External Territories, *Governance in the Indian Ocean Territories – Interim Report: Economic Development*, June 2015, pp. 4-5.

12 Documentary evidence includes material submitted to the inquiry by stakeholders that is not prepared specifically for the purpose of the inquiry (as submissions are) but may be relevant.

13 Joint Standing Committee on the National Capital and External Territories, *Public Hearings*, http://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Capital_and_External_Territories/Indian_Ocean_Territories/Public_Hearings

(Keeling) Islands, and develop mechanisms to release Crown land, as part of a strategic vision for the economic diversification of the IOT. An update is provided on the extension of mining leases on Christmas Island.

- 1.24 Three further chapters follow on governance.
- 1.25 Chapter Five looks at the Service Delivery Arrangements (SDA), particularly whether consultation with the IOT community is adequate and effects meaningful outcomes.
- 1.26 Chapter Six examines the role of the IOT Administrator, and whether the position should be strengthened, to bolster decision-making and the capacity to resolve service provision issues.
- 1.27 Chapter Seven will conclude with a discussion about governance reform, including the proposal to incorporate the IOT into a state or territory.



Tourism

Overview

- 2.1 Tourism has long been considered a potential cornerstone of a diversified Indian Ocean Territories (IOT) economy. Christmas and the Cocos (Keeling) Islands' attractive landscapes, rare animal and bird life, and unique cultures are considerable drawcards. However, like other remote Australian destinations, the development of a vibrant tourism sector in the region faces significant challenges. These challenges are compounded by the territories' unique governance arrangements and the presence of immigration detention operations on Christmas Island.
- 2.2 Overcoming these barriers will require close collaboration between Commonwealth and local governments, industry and the community. This chapter looks at opportunities to work together to boost promotion and marketing of the region and revitalise the territories' reputation as a premier holiday destination.

Chapter outline

- 2.3 The chapter begins by describing tourism in the IOT, highlighting the region's considerable natural and cultural drawcards and providing a typical visitor profile. Some of the barriers to tourism, including long-standing limitations are identified.
- 2.4 The chapter examines how access to reliable visitor data can support tourism sector growth. It considers the potential for additional assistance to grow tourism, as well as the prospects for establishing direct air

services to Asia. It concludes by considering difficulties associated with obtaining property insurance in the IOT.

Tourism in the Indian Ocean Territories

Attractions

- 2.5 The Director of National Parks said that Christmas Island is recognised internationally for its 'extensive seabird populations and the world's most diverse and abundant array of land crab species.'¹ It offers visitors the chance to experience internationally significant biodiversity:

Christmas Island has the greatest diversity and abundance of land crabs on Earth, with the most notable species being the endemic red crab, internationally known for its annual breeding migration when tens of millions migrate from the forests to the sea to breed.²

The wildlife on Christmas Island is very cooperative in that it is there. The minute you step off the plane you see it. It is not nocturnal... The birds are amazing, the crabs are incredible. The rainforest and the opportunity to actually be in the rainforest so quickly, and have it accessible is amazing. So it is a fantastic ecotourism opportunity.³

- 2.6 According to the Christmas Island Tourism Association (CITA), Christmas Island's annual red crab migration is the major attraction for international tourists:

...the red crabs draw in people from far and wide.⁴

- 2.7 Although less diverse, the natural environment on the Cocos (Keeling) Islands is no less attractive, boasting a rare example of a pristine Indian Ocean atoll in North Keeling Island:

[North Keeling Island] is one of the few Indian Ocean atolls free of rats and other introduced mammals; its intact vegetation and pest-

1 Director of National Parks, *Submission 14*, pp. 2-3.

2 Director of National Parks, *Submission 14*, pp. 5.

3 Ms Sally Barnes, Director of National Parks, Parks Australia, *Committee Hansard*, Canberra, 25 June 2015, p. 5.

4 Ms Karenn Singer, Manager, Christmas Island Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, p. 7.

free status means it is a major nesting site for frigates, boobies and other seabirds.⁵

- 2.8 Visitors to the Cocos (Keeling) Islands have access to wind surfing, lagoon canoe tours, and guided atoll walks.⁶
- 2.9 In addition to its considerable nature-based drawcards, the IOT is home to a mix of Cocos and Christmas Island Malays, Chinese and European populations with their distinctive blend of language, cuisine and customs.⁷

Ecotourism potential

- 2.10 The Director of National Parks referred to the potential for eco-tourism activities on Christmas Island and stated that it already supports some activities in this regard, namely Bird and Nature Week.⁸
- 2.11 Ms Sally Barnes, Director of National Parks outlined the range of eco-tourism activities that Parks Australia envisages for Christmas Island. She stated that guidelines were developed to test the market late in 2015 to gauge interest from prospective operators for establishing an eco-tourism development in the national park:

...it is about giving people the opportunity to appreciate the natural and cultural values. So a lot is around the immersion experience, as well as visiting as day visitors, and actually waking up in the park in a very low-key sustainable type arrangement and hearing the birds and being in the forest... We need to be clear about what would be appropriate.⁹

- 2.12 In February 2016, Parks Australia called for expressions of interest via a dedicated website with guiding documentation and an accompanying Youtube video. The website referred to the extraordinary natural assets on Christmas Island and the opportunities open to adventurous operators:

A rare chance to establish eco-tourist accommodation or other visitor experiences within the national park itself is on offer.¹⁰

5 Director of National Parks, *Submission 14*, p. 3.

6 Mr Julian Yates, *Submission 4*, pp. 8-9.

7 Christmas Island Tourism Association, *Submission 26*, p. 11.

8 Director of National Parks, *Submission 14*, p. 11.

9 Ms Sally Barnes, Director of National Parks, Parks Australia, *Committee Hansard*, Canberra, 25 June 2015, pp. 6-7.

10 Parks Australia, *Christmas Island Expression of Interest*, <http://eoi-christmas.parksaustralia.gov.au/about-eoi>, viewed 2 February 2016.

Committee comment

- 2.13 The Committee is pleased to see the Expression of Interest call for eco-tourism in Christmas Island National Park. This is a real chance to add to the tourism offering in the IOT, and increase visitor numbers.

Visitor profile

- 2.14 As there is no formal system of data collection on visitors to the IOT, it is impossible to obtain accurate and validated information on the visitor profile and numbers. CITA said that most visitors to Christmas Island are domestic travellers from Australia. The exception to this is during the crab spawning season, when 70 per cent of tourists on island are international and 30 per cent are domestic visitors.¹¹

- 2.15 The Cocos (Keeling) Islands Tourism Association (CKITA) advised that approximately 10 per cent of their visitors are international.¹² According to CKITA their domestic visitors, who make up the remaining 90 per cent of visitors to the islands, generally live within driving proximity to Perth:

...we have visitors who are perhaps 40 years of age and greater. They normally have a good disposable income. With the relatively high costs of coming to us we are not looking at your average Bali traveller. We get more family visitations during the school holiday period, but other than that it is generally couples with an interest in our drawcards, whether that is the nature base – diving, surfing – or the culture...¹³

- 2.16 CITA described a comparable visitor profile for Christmas Island:

...high-income people who have done a lot of travelling, want something different, want something 'braggable' – like nature, like photography, like diving... Usually a lot of the market is from [WA] because that is our key gateway. We also do have people coming from the east coast, especially for the special events which we promote, such as Bird and Nature Week.¹⁴

11 Mrs Karenn Singer, Manager, Christmas Island Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, p. 7.

12 Mr Dieter Gerhard, Chairperson, Cocos (Keeling) Islands Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, p. 7.

13 Mr Dieter Gerhard, Chairperson, Cocos (Keeling) Islands Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, pp. 6-7.

14 Ms Karenn Singer, Manager, Christmas Island Tourism Association, *Committee Hansard*, Canberra, 13 April 2015, p. 7.

Barriers to tourism

- 2.17 Many of the limitations impeding the growth of tourism in the IOT are long-standing and have been acknowledged in previous reports of this Committee. These include:
- the high cost of transport to the IOT and the high on-island costs;
 - the capacity of utilities like electricity and water to cope with a fluctuating population;
 - the limited availability of plane seats and accommodation of consistent quality; and
 - the standard of visitor attractions such as the National Park on Christmas Island, that may not be as well-developed as those on the mainland.¹⁵
- 2.18 Submitters to the current inquiry made similar observations. The Director of National Parks noted that Christmas Island has higher on-island and access costs than tourist destinations in Asia, and suggested that visitor amenities are largely outdated and ill-equipped to deal with increased tourism:
- In general, however, visitor amenities and infrastructure across the island are outdated and close to, or beyond their safe and functional lifecycle...many of the visitor current infrastructure and facilities would not effectively cope with larger numbers of tourists.¹⁶
- 2.19 In addition to these long standing limitations, the Committee heard that tourism in the territories is hindered by:
- the lack of visitor statistics;
 - the territories' unique governance arrangements;
 - media coverage of immigration detention operations;
 - the reliability, affordability and convenience of air access to the region;
 - restrictive land management practices; and

15 Joint Standing Committee on the National Capital and External Territories, *Inquiry into the Changing Economic Environment in the Indian Ocean Territories*, March 2010, pp. 75-89.

16 Director of National Parks, *Submission 14*, pp. 7-9; Ms Valerie Coleman, *Submission 5*, p. 1; Mr Signa Knight, private capacity, through Mr Mohammed Minkom, Communications Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, pp. 25-26.

- insurance.

2.20 Each of these challenges is considered below, except for land management, which is the subject of Chapter Four of this report.

Visitor statistics

2.21 CITA said reliable visitor data is an important enabler for the development of tourism in the IOT:

For tourism to develop we need to attract private investment. Private investors need... data...¹⁷

2.22 Data on the number and type of visitors entering a region enables tourism operators to predict and prepare for peaks and troughs in business, develop a better understanding of what visitors want (and do not want), and more effectively target marketing to increase tourism. It can also be used to attract tourism investment and inform development decisions.¹⁸

2.23 On mainland Australia, visitor data is collected by Tourism Research Australia (TRA), 'Australia's leading provider of quality tourism intelligence across both international and domestic markets.'¹⁹ TRA conducts annual National and International Visitor Surveys which provide a snapshot of tourism around the nation.²⁰ According to TRA, the number of survey respondents who have visited the IOT for tourism is too few to register in the surveys' results.²¹

2.24 Tourism associations of the IOT rely on anecdotal information about visitor numbers. CITA said:

The tourism associations run their own visitors' centres, so there is a general sense of when there are more tourists on the island.²²

17 Christmas Island Tourism Association, *Submission 26*, pp. 3-5.

18 Queensland Government, *Tourism Data and Statistics*, <https://www.business.qld.gov.au/industry/tourism/tourism-in-queensland/tourism-data-source-markets/tourism-and-queenslands-economy>, viewed 14 September 2015.

19 Tourism Research Australia, *website*, <http://www.tra.gov.au/>, viewed 18 January 2016.

20 Tourism Research Australia, *International Visitor Survey Methodology*, <http://www.tra.gov.au/research/international-visitor-survey.html>, viewed 18 January 2016; Tourism Research Australia, *National Visitor Survey Methodology*, <http://www.tra.gov.au/research/national-visitor-survey.html>, viewed 18 January 2016.

21 Customer Service Officer, Tourism Research Australia, *personal communication by telephone to the secretariat*, 9 October 2015.

22 Ms Lisa Preston, Chairperson, Christmas Island Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, p. 8.

- 2.25 CITA and CKITA suggested that the current air services provider, Virgin Australia, or staff managing the region's airports are well placed to collect more visitor data with oversight of the only two entry and exit points in the territories:

Ideally passenger data such as numbers and demographics would be collected as part of the air services/airport management contractual arrangements with the Australian Government.²³

This relies on the goodwill of the airline and the ability to compare against overall passenger movement data but will provide a more robust outcome than previous attempts at data collection.²⁴

- 2.26 CITA advised it had approached Virgin Australia about the possibility of administering a short visitor survey on inbound flights:

CITA is currently working with Virgin Australia to gather some basic statistics on passenger numbers. The concept... involves the air crew handing out a card with the Australian Incoming Passenger Card and then being collected upon arrival at the Christmas Island Airport. CITA will then collate the data.²⁵

Committee comment

- 2.27 The Committee recognises that collecting reliable visitor data is critical to the development of tourism in the IOT.
- 2.28 The current air services contract with Virgin Australia is due to expire in July 2016 and work to select a provider to deliver air services from 1 August 2016 is underway. It is the Committee's view that DIRD should require air carriers to make the collection of visitor data part of the provision of air services to the IOT.

23 Christmas Island Tourism Association and the Cocos (Keeling) Islands Tourism Association, *Submission 45*, p. 4.

24 Christmas Island Tourism Association, *Submission 26.1*, p. 1.

25 Christmas Island Tourism Association, *Submission 26.1*, p. 1.

Recommendation 1

The Committee recommends that the Department of Infrastructure and Regional Development require air carriers to the Indian Ocean Territories to distribute a visitor information card to all passengers for the purpose of collecting visitor data. The completed cards will be deposited in a marked box at the airport arrival terminals on Christmas Island and West Island for collection by the Christmas Island and Cocos (Keeling) Islands Tourism Associations.

Indian Ocean Territories tourism associations exclusion from mainland tourism structures

Budget

- 2.29 CITA and CKITA manage the Christmas Island and Cocos (Keeling) Island visitor centres respectively. They are directly funded by the Commonwealth Government, through DIRD, and managed by a mix of paid and volunteer staff. This differs from State Tourism Organisations which are funded by state governments.
- 2.30 Mrs Juliane Bush, Marketing Manager, CKITA said that their budget was approximately \$250,000 a year from the Australian Government:
- That money goes towards the operation of the visitor centre that you may have seen over at West Island. It also helps support a marketing program that we operate. We have a committee which is based on volunteers taken from our membership. We are a not-for-profit organisation as well... So our staff is currently made up of one full-time visitor centre manager, who is responsible for front of house, approximately two to three casual support tourism staff officers, and me, as marketing manager, and I am on a part-time basis.²⁶
- 2.31 Ms Karenn Singer, Manager, CITA said that their budget was about \$400,000:

²⁶ Mrs Juliane Bush, Marketing Manager, Cocos (Keeling) Islands Tourism Association, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 1.

Around \$300,000 of that goes towards marketing and the rest towards support services. Without the support services, we could not do the marketing. We also raise our own income to support wages through the visitor information centre. It operates as a shop, takes bookings so that we do have commissions and also takes a very small amount from our membership base.²⁷

2.32 Mrs Bush stated that CKITA is not funded to attract a broad skills set:

We currently have the skills set of destination marketing. However, we do not have the skills set in economic development when it comes to tourism specifically.²⁸

Service Delivery Arrangement with Tourism Western Australia

2.33 CITA explained that the IOT tourism associations lie outside the arrangements that DIRD has with the WA Government to deliver state-type services in the IOT. There is no Service Delivery Arrangement (SDA) with Tourism Western Australia (Tourism WA).²⁹

2.34 CKITA expanded on why there is no tourism SDA:

I believe there were negotiations possibly five to seven years ago with Tourism WA and, for whatever reason, the negotiations were not continued and therefore an SDA was not established with Tourism WA. ...I understand from a [WA] Government point of view, we are not state tax payers. The money that Tourism WA uses to market [WA] as a destination comes from state taxpayers - and we do not contribute...³⁰

2.35 DIRD confirmed that the Australian Government previously discussed the establishment of an SDA with Tourism WA, for assistance with promotion and marketing of the IOT. According to DIRD, Tourism WA had advised of limited capacity to promote destinations outside of its state jurisdiction. DIRD said that benefits could ensue through an SDA:

27 Ms Karenn Singer, Manager, Christmas Island Tourism Association, *Committee Hansard*, Christmas Island, 9 April 2015, p. 14.

28 Mrs Juliane Bush, Marketing Manager, Cocos (Keeling) Islands Tourism Association, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 11.

29 Ms Karenn Singer, Manager, Christmas Island Tourism Association, *Committee Hansard*, Christmas Island, 9 April 2015, p. 14.

30 Mrs Juliane Bush, Marketing Manager, Cocos (Keeling) Islands Tourism Association, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 11.

...through other professional services and/or advice in areas such as destination marketing, events tourism, industry development and accreditation, and visitor servicing.³¹

- 2.36 CKITA said that the exclusion of the IOT from mainland tourism associations makes it difficult to develop tourism:

Basically, as a tourism association, what we are trying to achieve here on the island is a mixture of all of those organisations that occur on the mainland that regional destinations on the mainland are privileged to receive. We are not the only ones in this situation. Christmas Island is also in the same position, as well as Norfolk Island. ...and that I think is a big detriment to the future long-term strategic direction of tourism on Christmas and Cocos, and on Norfolk Island as well.³²

- 2.37 CKITA alluded to other implications of not being part of a state tourism body; namely not being part of developing tourism throughout the region.³³

Regional tourism associations

- 2.38 Regional tourism associations, such as Australia's North West Tourism, work with state tourism bodies and local operators to improve tourism products in their jurisdiction. They are funded through a combination of membership and state government funding.³⁴
- 2.39 In the absence of being part of a dedicated regional tourism body, CITA and CKITA have said they work together on regional promotion and marketing.³⁵

Australian Tourism Data Warehouse

- 2.40 The Australian Tourism Data Warehouse (ATDW) is an important digital content distribution platform for the Australian tourism industry. It makes

31 Department of Infrastructure and Regional Development, *Submission 36.4*, p. 7.

32 Mrs Juliane Bush, Marketing Manager, Cocos (Keeling) Islands Tourism Association, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 3.

33 Mrs Juliane Bush, Marketing Manager, Cocos (Keeling) Islands Tourism Association, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 11.

34 Winemakers' Federation of Australia, *Tourism Organisation Services*, <http://www.wfa.org.au/index.php/resources/wine-tourism-toolkit/developing/working-with-others/tourism-organisation-services/>, viewed 8 December 2015.

35 Christmas Island Tourism Association and the Cocos (Keeling) Islands Tourism Association, *Submission 45*, pp. 4-5.

over 35,000 Australian tourism product listings available for publication across geographical boundaries.³⁶ The IOT is not currently promoted through the ATDW because the region remains unaffiliated with Tourism WA, and it is the state tourism bodies that select content for inclusion in the warehouse:

[State tourism associations, such as Tourism WA, usually] select and manage the feed of accommodation, tourism experience and other products that make it onto that tourism database.³⁷

2.41 CITA said inclusion in the ATDW would extend the reach of tourism:

It is anticipated that, once Australia's island territories are included, this will flow through to Tourism Australia and these islands will be recognised on the Tourism Australia website, which will help drive tourism traffic.

These steps will enhance our ability to sell to a global market.³⁸

2.42 Tourism Australia offered to advocate for the territories' inclusion in the ATDW:

...we are happy to work and advocate on behalf of the territories in terms of access to the ATDW, to ensure we can make the most of the opportunities available, especially with content.³⁹

2.43 Inclusion of the IOT in the ATDW is being progressed. CITA stated:

[The] ATDW have advised their intention to include an external territories section on their new IT platform which will cover Christmas, Norfolk and Cocos (Keeling) Islands and provide similar content management arrangements provided to regional tourism organisations. This is still subject to board approval.⁴⁰

36 Australian Tourism Data Warehouse, *About Us*, <http://www.atdw.com.au/aboutus>, viewed 2 September 2015.

37 Mr Tim Mahony, Government and Media Relations Manager, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 3.

38 Ms Karenn Singer, Manager, Christmas Island Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, p. 2.

39 Mr Tim Mahony, Government and Media Relations Manager, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 9.

40 Christmas Island Tourism Association, *Submission 26.1*, p.1.

Tourism Australia

- 2.44 Tourism Australia coordinates the marketing and promotion of Australia internationally. It manages the consumer orientated website Australia.com, the Australian Tourism Exchange (ATE) trade show, as well as promotional tools such as the Aussie Specialist Program (ASP). Tourism Australia is funded by the Commonwealth.⁴¹
- 2.45 Tourism Australia said it is focused on international, not domestic tourism (which is the main market of the IOT). However, it is willing to assist the tourism associations of the IOT where it can.⁴²
- 2.46 Tourism Australia invited CITA and CKITA to participate in a range of its initiatives including the promotional website, Australia.com; the ATE; and the ASP.⁴³

Australia.com

- 2.47 Tourism Australia's website Australia.com is a key component of their digital marketing. The consumer-oriented website offers prospective tourists information on travelling in Australia and promotes the attractions and unique experiences available in different regions of the country. Travellers can find out more about different destinations by clicking on an interactive map of Australia or by conducting a search of the website.⁴⁴ However, the website does not currently feature Christmas or the Cocos (Keeling) Islands because content is largely drawn from the ATDW, which does not cover the IOT.⁴⁵
- 2.48 During the inquiry, Tourism Australia signalled that work is underway to include the IOT in online destination maps:

Tourism Australia is currently refreshing content on its consumer website Australia.com including the key map on the website. The

41 Mr Tim Mahony, Government and Media Relations Manager, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, pp. 1-4; Mr Leigh Sorensen, General Manager Industry Relations, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, pp. 7-8; Tourism Australia, *Submission 47*, pp. 1-2.

42 Mr Tim Mahony, Government and Media Relations Manager, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, pp. 1-10; Mr Leigh Sorensen, General Manager Industry Relations, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, pp. 1-10.

43 Mr Tim Mahony, Government and Media Relations Manager, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, pp. 4-10.

44 Tourism Australia, www.Australia.com, viewed 4 September 2015.

45 Mr Tim Mahony, Government and Media Relations Manager, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 3.

next version of the map will include the external territories. This should be completed in the next six months in line with the broader Australia.com content project.⁴⁶

- 2.49 Further, Tourism Australia offered to assist CITA and CKITA to prepare searchable and promotional content for inclusion on the website:

What we need is to be able to improve the searchability of the external territories. We are very open to working with the Administrator and tourism associations of both islands to identify the tourism product that is export ready and build some itineraries and content pages around the itineraries and product so that we can include and improve our pages and the representation of the external territories.⁴⁷

Australian Tourism Exchange

- 2.50 Tourism Australia's ATE is the nation's largest annual tourism trade event. It brings together approximately 500 Australian businesses to showcase their products directly to tourism wholesalers and retailers from around the world, through a combination of networking events and scheduled business appointments. Approximately 700 buyer delegates from over 30 countries attend the event, alongside over 80 international and Australian media outlets.⁴⁸

- 2.51 Tourism Australia noted that CITA and CKITA attended the ATE in 2013 and 2014, and participated in an international media program in the lead up to the 2015 event.⁴⁹ Tourism Australia alluded to the benefits of Christmas and the Cocos (Keeling) Islands' yearly engagement with the ATE:

I... think that having Christmas Island... and Cocos represented through the Australian Tourism Exchange is an important strategic move for both destinations. The exposure to international buyers is extremely valuable, and getting your best product in front of those buyers is, I think, a critical part of any international

46 Tourism Australia, *Submission 47*, p. 1.

47 Mr Tim Mahony, Government and Media Relations Manager, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 4.

48 Tourism Australia, *About Australian Tourism Exchange 2015*, <http://www.tradeevents.australia.com/te03/eventModule/home.do?eventModuleId=28799>, viewed 27 August 2015.

49 Tourism Australia, *Submission 47*, p. 1.

marketing strategy that you might have. Again, development of quality product is the key there.⁵⁰

Aussie Specialist Program

2.52 Tourism Australia's ASP is an online course which equips travel agents from around the world with the knowledge and skills to sell Australian tourism products more effectively.⁵¹ Approximately 30,000 travel agents have access to the program and around 18,000 of these have completed the course and qualified as 'Aussie Specialists.' According to Tourism Australia, the ASP is currently being updated, providing a good opportunity to update material on the IOT and increase exposure to international travel retailers:

The [ASP] website... was in bad need of an upgrade; it was not very interactive; it was quite static in the way it was presenting information et cetera – and so that has been going through a major overhaul... There will be opportunities, though, for the external territories to provide us with information that can go up... You can present video information directly to agents via our training program as well, to train them about how to sell and what is available on the island.⁵²

2.53 Tourism Australia said it will assess the Christmas and Cocos (Keeling) Islands tourism offerings to determine whether they are suitable for inclusion in the ASP:

...an assessment will be made of the local tourism product, access, safety etc. If appropriate, work may begin in developing an ASP module for the IOT, however they must meet the strict criteria for inclusion in the ASP.⁵³

2.54 CITA and CKITA could then provide additional content to encourage travel agents to promote the region:

What we encourage our operators to do are just little things: for example – this is not something that is high tech – filming yourself talking about your product on your iPhone and sending that

50 Mr Tim Mahony, Government and Media Relations Manager, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 4.

51 Tourism Australia, *Aussie Specialist Program*, <http://www.tourism.australia.com/programs/aussie-specialists-program.aspx>, viewed 12 February 2016.

52 Mr Leigh Sorensen, General Manager Industry Relations, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 7.

53 Tourism Australia, *Submission 47*, p. 1.

through to us as a clip that we can then send out to these travel agents so they can understand what that particular product is all about.⁵⁴

- 2.55 Tourism Australia noted that the ASP could be used to attract travel agents to the islands by offering special deals through the program:

In turn, they can also provide offers for travel agents when they are coming down for their own holidays to go to visit the islands on specials... So, I think there will be some enormous opportunities coming up. That is just a case of [CITA and CKITA] ... getting in touch with our Aussie Specialist team in Sydney, which we are happy to coordinate if they do not already know them.⁵⁵

- 2.56 Tourism Australia offered to have a discussion with CITA about opportunities in the next 12 months.⁵⁶

- 2.57 CITA confirmed that it was keen to participate in the ASP, saying:

...we certainly want to jump on board the Aussie Specialist Program, so we will look at that one as well.⁵⁷

Immigration detention activities

- 2.58 For some years, the presence of immigration detention activities has had a significant impact on Christmas Island tourism. Former Administrator Mr Brian Lacy explained:

In the past five years tourism has suffered a significant setback as a result of the detention centre activities. From 2010 to 2012 flights to [Christmas] Island and accommodation were filled with personnel associated with, or engaged in the operations for the detention centre.⁵⁸

54 Mr Leigh Sorensen, General Manager Industry Relations, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 7.

55 Mr Leigh Sorensen, General Manager Industry Relations, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 7.

56 Mr Leigh Sorensen, General Manager Industry Relations, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 10.

57 Ms Karenn Singer, Manager, Christmas Island Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, p. 10.

58 Mr Brian Lacy, *Submission 39*, p. 20.

- 2.59 CITA claimed that media coverage of immigration operations damaged the reputation of the IOT as a holiday destination:
- ...we suffered from savage damage to our brand with riots, boat crashes and things like that.⁵⁹
- 2.60 According to CITA, prior to immigration detention operations Christmas Island received approximately 2,000 visitors per year.⁶⁰ DIRD estimates current visitor numbers are now around 800 per year.⁶¹
- 2.61 Tourism Australia said that reputational damage is likely confined to the territories' primary visitor market; domestic tourism:
- Most people around the world would not know, I would imagine, where Christmas Island is. It is different for Australians...⁶²
- 2.62 CITA observed that the recent decline in immigration activities⁶³ on Christmas Island had eased competition for flights and accommodation, however the problem of reputational damage persists:
- We are still recovering from that. We thank the [Australian] Government for continuing to fund us through that period, because I really see now that we would not even be getting the few people that we do if we had not continued to stay out in the market despite what we looked like on the news and in the media that was out there consistently.⁶⁴
- 2.63 CITA and CKITA argued that reputational damage is best redressed through targeted marketing. They said they are working collaboratively to promote the region:
- Continued targeted marketing and promotion of nature and culture is the means available to CITA to rebuild the Christmas Island brand...

59 Ms Lisa Preston, Chairperson, Christmas Island Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, p. 8.

60 Ms Karenn Singer, Manager, Christmas Island Tourism Association, *Committee Hansard*, Christmas Island, 9 April 2015, p. 14.

61 Department of Infrastructure and Regional Development, *Submission 36*, p. 4.

62 Mr Leigh Sorensen, General Manager of Industry Relations, Tourism Australia, *Committee Hansard*, Canberra, 13 August 2015, p. 9.

63 Department of Immigration and Border Protection, *Submission 23*, p. 1.

64 Ms Lisa Preston, Chairperson, Christmas Island Tourism Association, *Committee Hansard*, Canberra, 13 August, p. 8.

To gain best value for money CITA and CKITA continue to work together to market the region under the banner of Australia's Indian Ocean Islands.⁶⁵

- 2.64 The tourism associations suggested that additional funding would enhance the reach of marketing and promotion to rebuild the region's reputation:

Our marketing reach and capacity would be enhanced by:

- increased funding to enable more targeted advertising and social media campaigns, support agent and media familiarisation visits and participation in trade and consumer shows in Australia, Asia and the UK and trade shows including the Australian Tourism Exchange (ATE).⁶⁶

- 2.65 DIRD said it already funds IOT tourism associations to undertake marketing campaigns, but acknowledged that 'better' promotion and 'national marketing campaigns' are needed to boost tourism:

The Department supports tourism development through funding local tourism associations, including funding for marketing campaigns...

The Department recognises that other avenues also need to be utilised to boost tourism, including by better promoting the IOT, ensuring that the IOT are included in national marketing campaigns and working with wholesale suppliers to develop complete experience packages.⁶⁷

Committee comment

- 2.66 The unique governance arrangements in the IOT means that the territories are largely excluded from mainland tourism support structures.

- 2.67 The Committee understands that the IOT will continue to be excluded from mainland tourism bodies, unless additional arrangements are made for them to access mainland support structures.

- 2.68 The Committee notes that past negotiations for the IOT to have an SDA with Tourism WA have not been successful. This does not preclude DIRD

65 Christmas Island Tourism Association and the Cocos (Keeling) Islands Tourism Association, *Submission 45*, pp. 4-5.

66 Christmas Island Tourism Association and the Cocos (Keeling) Islands Tourism Association, *Submission 45*, p. 5.

67 Department of Infrastructure and Regional Development, *Submission 36*, p. 4.

from trying again to negotiate an SDA for tourism with the WA Government.

Recommendation 2

The Committee recommends that the Department of Infrastructure and Regional Development negotiate a Service Delivery Arrangement, in consultation with the Christmas Island and Cocos (Keeling) Islands Tourism Associations, to facilitate access to tourism support services provided by Tourism Western Australia.

- 2.69 The Committee would like to see the ATDW board approve the inclusion of an external territories section in its new IT platform.
- 2.70 The inclusion of the IOT in key Tourism Australia initiatives will help bolster the region's exposure to international tourism. Featuring the IOT on the website, Australia.com will raise its profile amongst international holiday makers and increase its prominence online. Participation in the ATE and ASP will showcase the region's considerable natural attractions directly to travel retailers around the globe.
- 2.71 The Committee wants to see Tourism Australia continue to assist the IOT tourism associations where it can. The current informal arrangements that Tourism Australia has with the IOT tourism associations should be formalised. This might take the form of a memorandum of understanding that includes mentorship and secondment opportunities for staff to build capacity in the IOT tourism organisations, on request from those organisations. Tourism Australia officers could be placed in the IOT tourism organisations to offer a range of expertise and assistance, including economic development in tourism.

Recommendation 3

The Committee recommends that the relationship between Tourism Australia and the Indian Ocean Territories tourism associations be formalised. The formalised arrangement should include provision for Tourism Australia to build capacity, including promotion and marketing expertise, in the Christmas and Cocos (Keeling) Islands Tourism Associations. This could include secondment placements and mentoring opportunities.

- 2.72 While it can be argued that immigration detention activities on Christmas Island boosted the local economy, to the extent that fly-in fly-out workers spent money on local services, the perception of Christmas Island as a domestic holiday destination suffered during that time. This impact has lingered, even though immigration detention activities have been winding down.
- 2.73 The Commonwealth has stated its support for a stronger economy in the territories and noted that tourism has an important role to play. The Committee considers it appropriate that the Commonwealth contributes additional resources to market and promote the region to redress reputational damage that immigration policy has played a part in.
- 2.74 The Australian Government should provide additional resources to CITA and CKITA to enhance marketing and promotion of the Christmas and Cocos (Keeling) Islands as a holiday destination for domestic travellers.

Air access to the Indian Ocean Territories

- 2.75 CITA and CKITA emphasised that quality air services to the IOT are critical to tourism, as flying is the only mode of passenger travel to the territories.⁶⁸
- 2.76 A twice-weekly service is currently provided by Virgin Airlines to and from mainland Australia. This is subsidised by the Commonwealth through a contractual arrangement. The service comprises:

68 Christmas Island Tourism Association and the Cocos (Keeling) Islands Tourism Association, *Submission 45*, pp. 2-4.

- one triangulated A320 flight Perth-Christmas Island-Cocos (Keeling) Islands-Perth each week on a Tuesday; and
 - one triangulated A320 flight Perth-Cocos (Keeling) Islands-Christmas Island-Perth each week on a Saturday.⁶⁹
- 2.77 DIRD's contract with Virgin Airlines is due to expire in July 2016 and a tender process is underway to identify a provider to continue air services from 1 August 2016.⁷⁰
- 2.78 In discussing the future of air services in the territories, CITA and CKITA emphasised the need for services to be:
- reliable, including long lead times for route or schedule changes;
 - affordable, offering promotional and wholesale fares; and
 - convenient for travellers.

Reliability – lead times for route or schedule changes

- 2.79 CKITA said two triangulated flights to the IOT are sufficient for tourism, as long as they are reliable:
- ...two flights a week is something that we can work with. Our greatest damage is coming from what appears to be ad hoc, uncoordinated flight changes...
- We need reliability.⁷¹
- 2.80 CITA observed that abrupt or last minute flight schedule changes impact the holiday plans of tourists and damage the region's standing with travel agents:
- ...with our work through the [Australian Tourism Exchange] we do actually have international travel agents and wholesalers dealing with us...you almost get the sense that Christmas and Cocos [Keeling] Islands...mess them around the most. It does not look good on us. It becomes too hard and there are hundreds of other places that they can send these guests to.⁷²

69 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 4; Office of the Administrator Indian Ocean Territories, *Community Bulletin A14/2015*, 27 May 2015, p. 1.

70 Department of Infrastructure and Regional Development, *Community Bulletin D15/2015*, 15 May 2015.

71 Mr Dieter Gerhard, Chairperson, Cocos (Keeling) Islands Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, p. 6.

72 Ms Lisa Preston, Chairperson, Christmas Island Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, p. 5.

- 2.81 CITA and CKITA noted this also affected local operators:
- Small business incurred considerable financial costs and lost opportunities with the recent changes from 1 July 2015.⁷³
- 2.82 CITA and CKITA stated that, in the future, schedule or route changes must be announced well in advance:
- If there are significant changes to routes and schedules a six month lead time is needed to minimise impact on forward bookings.⁷⁴

Affordability – wholesale and promotional fares

- 2.83 Throughout the inquiry, CITA and CKITA emphasised the importance of wholesale and promotional air fares. They argued that more affordable and flexible fares are needed to encourage tourism outside of peak periods.⁷⁵
- The ability for the airline to manage fares through normal commercial arrangements to encourage tourism in the slower periods including outside of school holidays and peak activities/events (windsurfing season, crab migration season). This may include last minute seat sales and wholesale ticketing arrangements.⁷⁶
- 2.84 In 2015, Mr Barry Haase, Administrator announced that Virgin Airlines was going to introduce wholesale airfares.⁷⁷
- 2.85 CKITA said it was generally satisfied with the passenger service provided by Virgin Australia and hoped that negotiated arrangements would continue into the new air services contract when it commences 1 August 2016:
- ...it is vital that if a new airline carrier takes over or if the contract changes significantly that the progress that has already been made with air services to the islands is not lost.⁷⁸

73 Cocos (Keeling) Islands Tourism Association and the Christmas Island Tourism Association, *Submission 45*, p. 4.

74 Cocos (Keeling) Islands Tourism Association and the Christmas Island Tourism Association, *Submission 45*, pp. 3-4.

75 Christmas Island Tourism Association and the Cocos (Keeling) Islands Tourism Association, *Submission 45*, p. 3; Mrs Juliane Bush, Marketing Manager, Cocos (Keeling) Islands Tourism Association, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 11.

76 Cocos (Keeling) Islands Tourism Association and the Christmas Island Tourism Association, *Submission 45*, p. 3.

77 Office of the Administrator Indian Ocean Territories, *Community Bulletin A14/2015*, 27 May 2015, p. 2.

Convenience – flight access from the north

2.86 There are currently no regular scheduled flights from the IOT to international destinations to the north, although Christmas Island Air operates a charter flight from Jakarta to Christmas Island on an ad-hoc basis.⁷⁹ Witnesses to this and previous JSCNCET inquiries emphasised the importance of regular flights to the north and suggested that the current requirement to travel to the territories via Perth can be inconvenient for Asian and European tourists, as well as for locals with family ties in Asia.⁸⁰

2.87 CKITA said the flight routing through Australia discourages international visitors:

...we get the inquiries, but when people find out that they have basically got to fly through Asia all the way over the top [of the IOT] down to Perth and then turn around to come back, it is very hard to convert those [into bookings].⁸¹

2.88 DIRD acknowledged that many IOT residents have close family and cultural ties with Asian neighbours, such as Singapore, Indonesia and Malaysia, and that some members of the community consider there should be more direct air connections.⁸²

2.89 CKITA and CITA both claimed that regular flights to Asia would make it more convenient for international visitors to travel to the IOT and represented the greatest opportunity to grow tourism in the region.⁸³ CITA explained:

...we do think our main tourism growth is from the north. That is from Asia: the wealthy Asians who can pop across for short visits – they do not get very long. It is also from Europe, where we have a large following – we attend bird fairs in England – and potentially even from the United States for what we offer. So we

78 Cocos (Keeling) Islands Tourism Association, *Submission 44*, p. 2.

79 Christmas Island Tourism Association, *Getting there - Flights*, <https://www.christmas.net.au/plan-your-trip/flights.html>, viewed 7 September 2015.

80 Joint Standing Committee on the National Capital and External Territories, *Report on the visit to the Indian Ocean Territories, 21-25 October 2012*, June 2013, p. 24; Mr James Clarke, Managing Director, Global Enterprise Group Pty Ltd, *Committee Hansard*, Canberra, 17 September 2015, p. 5.

81 Mr Dieter Gerhard, Chairperson, Cocos (Keeling) Islands Tourism Association, *Committee Hansard*, Canberra, 13 August 2015, p. 7.

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

83 Christmas Island Tourism Association and the Cocos (Keeling) Islands Tourism Association, *Submission 45*, p. 2.

do think there would be a lot of opportunity if there was a regular flight coming from the north.⁸⁴

2.90 The Committee received evidence indicating that at least one commercial airline, Air Timor, is interested in establishing a service between Christmas Island and Indonesia.

2.91 However, according to Air Timor, flights to the north may not be economically viable without Australian Government assistance. Air Timor observed that it takes at least 12-18 months to develop the viability of a new air service. It said that a viable weekly flight from Indonesia to Christmas Island could only be established if landing and security fees were initially waived:

We believe we can successfully operate a once weekly flight to Christmas Island from Bali.

In the first year it will operate at a loss and we have submitted a letter to [DIRD] to forgo security and landing charges in the first year, to reduce that loss. It will take 12-18 months to make this weekly flight viable and we will incur greater losses than the costs forgone by the Commonwealth.⁸⁵

2.92 Air Timor suggested that a weekly flight would not be enough, in itself, to develop tourism in the territories:

To develop tourism requires a minimum of two to three flights per week to enable tourism packages to be created and that then requires sufficient hotel accommodation. We cannot see any possible large scale hotel development or the existing hotel re-opening due to the high capital costs and the excessive operating costs on Christmas Island.

Therefore a 'catalyst' is required to make it attractive to build or reopen the existing hotel - that means a casino licence. Without such a licence being granted we see no opportunity to have more than a once a week flight from Asia.⁸⁶

2.93 Casino Management International agreed:

A reopened casino would transform Christmas Island into a modern and vibrant tourist and holiday destination...⁸⁷

84 Ms Karenn Singer, Manager, Christmas Island Tourism Association, *Committee Hansard*, Christmas Island, 9 April 2015, p. 15.

85 Air Timor, *Submission 51*, p. 1.

86 Air Timor, *Submission 51*, p. 1.

87 Casino Management International, *Submission 15*, p. 1.

- 2.94 DIRD noted that it is not Australian Government policy to subsidise flights to the north of the IOT. While it waived landing fees between 2009 and 2012, the Department indicated that further work would be required to assess the benefits of another waiver, and:
- explore exemptions from cabotage arrangements, thus allowing international airlines to fly via the IOT; and
 - source funding to upgrade infrastructure, including through private/public partnership.⁸⁸

Committee comment

- 2.95 Reliable and affordable air access is essential for tourism to succeed in the IOT. A reasonable lead time for flight route or schedule changes is important to enable travellers and retailers to plan for the changes with the least amount of inconvenience. Wholesale and promotional fares can provide an incentive for tourists to visit during off-peak periods. Reduced fares are a sensible commercial decision, if more seats on the plane can be filled. The Committee would like to see this practice continue. Having promotional airfares will enhance the standing that air carriers have amongst tourism operators and residents alike.
- 2.96 The Australian Government subsidises flights between the IOT and Perth to ensure residents are not isolated from mainland Australia. It does not subsidise international flights.⁸⁹ However, the Committee notes that regular flights to Asia operated in conjunction with the Christmas Island casino in the 1990s. Private providers may determine that similar flights are economically viable, particularly if the Committee's recommendation to reopen the casino in its interim report tabled in June 2015 is taken up by Government.⁹⁰
- 2.97 The Committee notes that the Administrator, Mr Barry Haase led a community meeting on July 2015 to discuss reopening the casino and that the majority of attendees recorded their support.⁹¹ The Committee reiterates that it wants to see this matter progressed by the Australian Government.
- 2.98 The Committee notes Air Timor's request to be exempted from landing and security fees for a period to support the establishment of an
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88 Department of Infrastructure and Regional Development, *Submission 36*, p. 6.

89 Mr Julian Yates, *Submission 4*, p. 8.

90 Mr Michael Asims, Owner's Representative, Soft Star Pty Ltd, *Committee Hansard*, Christmas Island, 9 April 2015, p. 34; China Southern Airlines, *Submission 48*, p. 2.

91 Office of the Administrator Indian Ocean Territories, *Christmas Island Community Meeting: Potential Establishment of a Christmas Island Casino Licence Summary Notes*, 22 July 2015.

economically viable service from Indonesia to Christmas Island. It also notes that this is something that the Australian Government has done in the past for other airline operators.

Recommendation 4

The Committee recommends that the Department of Infrastructure and Regional Development exempt airline operators that are interested in providing scheduled international flights to Christmas Island from landing and security fees for an initial operational period of 12 months.

Insurance

2.99 According to submitters, it is difficult and costly to insure business and property on Christmas and the Cocos (Keeling) Islands.⁹² In this regard, the IOT is no different to the northern regions of mainland Australia. Insurance premiums have risen significantly in the last few years, particularly in northern Queensland, causing hardship for individuals and impacting the growth and development of affected areas.⁹³ The rapid increase is primarily attributed to cyclone risk:

Cyclones have always been part of life in northern Australia – Tropical Cyclone Tracy remains one of the most damaging natural disasters in Australian history. However, in recent years the insurance industry has reassessed the potential losses due to cyclones in northern Australia... The re-evaluation of potential losses due to cyclones saw a range of insurers reprice their premiums...⁹⁴

2.100 The Indian Ocean is particularly vulnerable to cyclones:

92 Councillor John Clunies-Ross, *Submission 6.2*, p. 5; Mr Raymond Marshall, *Submission 29*, p. 3; Mr Alan Whitley, *Submission 38*, p. 24; Mr Brian Lacy, *Submission 39*, pp. 21-22; Christmas Island Tourism Association, *Submission 26*, p. 10; Mr Keir Fraser, private capacity, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 16.

93 Northern Australia Insurance Premiums Taskforce, *Interim Report*, 2015, p. 1.

94 Northern Australia Insurance Premiums Taskforce, *Interim Report*, 2015, pp. 9-10.

The Australian cyclone season officially runs from November to April. In the Indian Ocean, however, cyclones can occur all year around, although the risk in the winter months is very low.⁹⁵

- 2.101 Mr Alan Whitely suggested that a lack of data on the occurrence of risks, such as cyclones, is contributing to IOT insurance difficulties:

...the islands find it difficult to secure insurance at anything that resembles premium rates. Whilst various reasons are given by brokers and insurance companies, we suggest that the real issue is that insurance underwriters do not have the historical information available to them to input into their risk models. We suspect that in some instances this will result in them simply declining to offer cover, and in other cases will see their models manually manipulated to provide the required input data. Due to their inherent conservativeness, these manual inputs will always lead to grossly inflated premiums.⁹⁶

- 2.102 The Shire of Cocos (Keeling) Islands highlighted the lack of insurance in the IOT as a key barrier to economic development.⁹⁷

- 2.103 Cocos (Keeling) Islands resident, Mr Ray Marshall observed that IOT residents find it difficult to sell property without insurance. He said:

It also stops anyone wanting to invest in infrastructure with lack of cover.⁹⁸

- 2.104 Mr Colin Bloomfield, a small business owner on Cocos said:

...with the inability to get insurance, it is very difficult for people to raise finance.⁹⁹

- 2.105 Former Administrator, Mr Brian Lacy said that the availability of insurance has been a long-standing issue in the territories:

The issue of insurance was an issue that I raised with [DIRD] on many occasions. ...the Department commissioned an inquiry into access to insurance for the IOT...but it was not published or provided to me before my departure...¹⁰⁰

95 Northern Australia Insurance Premiums Taskforce, *Interim Report*, 2015, p. 57.

96 Mr Alan Whitely, *Submission 38*, p. 24.

97 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 23.

98 Mr Ray Marshall, *Submission 29*, p. 3.

99 Mr Colin Bloomfield, private capacity, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 27.

100 Mr Brian Lacy, *Submission 39*, pp. 21-22.

Committee comment

- 2.106 The Committee acknowledges that an inability to access affordable insurance is a significant barrier to economic development. As noted, the reasons underlying this are not necessarily unique to the IOT.
- 2.107 A taskforce was established by the Hon Josh Frydenberg MP, former Assistant Treasurer, in March 2015 to explore options to assist regions of Northern Australia (including the IOT) to reduce insurance premiums in those areas 'experiencing insurance affordability concerns due to cyclone risk.'¹⁰¹
- 2.108 The Committee Chair wrote to the taskforce in May 2015 to specifically request that the IOT be included in this review. A final report, including recommendations on the best way forward, was provided to the Australian Government by November 2015.¹⁰² The Committee awaits the Government's response to that report.

101 The Hon Josh Frydenberg MP, Assistant Treasurer, Details of the Northern Australia Insurance Premiums Taskforce, *Media Release*, 8 May 2015, <http://jaf.ministers.treasury.gov.au/media-release/024-2015/>, viewed 8 September 2015.

102 Commonwealth Treasury, Northern Australian Insurance Premiums Taskforce, <http://www.treasury.gov.au/ConsultationsandReviews/Reviews/2015/NAIP-Taskforce>, viewed 9 December 2015.

Regional Development Organisation and Mining to Plant Enterprises Project

Overview

3.1 The economic sustainability of the Indian Ocean Territories (IOT) has been the subject of successive Joint Standing Committee on the National Capital and External Territories (JSCNCET) inquiries.¹ Former public servant, Mr Julian Yates said that over the years a number of economic development organisations have been formed to support this objective, with mixed results:

Various iterations of the regional development organisations have operated in the islands over the years. ...there have been successes in improvements in local capability to build new business, but there has also been activity without result.²

3.2 The Regional Development Organisation (RDO) is the latest iteration. It was established in 2012, when separate economic development consultation groups for Christmas and the Cocos (Keeling) Islands were

1 See Joint Standing Committee on the National Capital and External Territories, *Report on the visit to the Indian Ocean Territories, 21-25 October 2012*, pp. 19-33, *Inquiry into the changing economic environment in the Indian Ocean Territories*, March 2010, and *Current and future governance arrangements for the Indian Ocean Territories*, May 2006, pp. 31-38.

2 Mr Julian Yates, *Submission 4*, p. 6.

amalgamated, and a dedicated Economic Development Officer position was discontinued.³

3.3 It is important to note that the IOT does not have an operational chamber of commerce. This is unlike mainland Australia where most regions have a local organisation which communicates with the government and community on behalf of the local business sector. Chambers of commerce also foster a culture of free enterprise, investment and entrepreneurship.

3.4 Mr Russell Payne (former Christmas Island resident and President of the disbanded Christmas Island Chamber of Commerce) described various economic initiatives, including Commonwealth infrastructure projects, which were driven by the former CI Chamber of Commerce. He also noted that the former Chamber of Commerce took an active interest in local industries, such as the casino or mine. He said:

We had the rebuilding program over the 1990s, which was really good for the economy of the island. We upgraded all our services. All our water, electrical, hospitals, schools, power station and sewerage treatment got revamped – a \$167 million project. It was great stuff; it really worked well.

...We used to try and think things up in the chamber [like having the Korean Freedom League double the rooms at the casino before they opened or create a film studio to make an Asian soapie].⁴

3.5 The RDO is not a substitute for a chamber of commerce.

Chapter outline

3.6 The chapter begins by outlining the structure and functions of the RDO before turning to an assessment of its contribution. The RDO is perhaps best known for its endorsement of the Mining to Plant Enterprises (MINTOPE) agricultural research project. The MINTOPE project was the subject of a dedicated chapter in the Committee's interim report⁵ and will be revisited here, in light of recent moves to trial the cultivation of industrial cannabis, with a view to establishing commercial production.

3 Mr Chris Su, Chairperson, Indian Ocean Group Training Association, *Committee Hansard*, Christmas Island, 9 April 2015, p. 20; Mr Raymond Marshall, *Submission 29*, p. 2.

4 Mr Russell Payne, private capacity, *Committee Hansard*, Perth, 8 May 2015, p. 26-29.

5 Joint Standing Committee on the National Capital and External Territories, *Governance in the Indian Ocean Territories, Interim Report: Economic Development*, June 2015, pp. 37-45.

- 3.7 The chapter then examines suggestions to strengthen the RDO for better economic outcomes in the region.

RDO structure and functions

- 3.8 The RDO is an incorporated association under Western Australian (WA) law, meaning it is a legal entity in its own right, able to apply for grants and continue to operate regardless of changes to its membership.⁶

- 3.9 It is chaired by the IOT Administrator, Mr Barry Haase and its membership is drawn from local government and residents of the Christmas and Cocos (Keeling) Islands.⁷ The RDO can appoint its own members with approval from the Minister responsible for the territories, however its constitution requires it to include local government representatives from both territories:

The present constitution requires that the shires of Christmas and the Cocos [(Keeling) Islands] are represented on the RDO. Other members are there by appointment of the Committee, approved by the Minister.⁸

- 3.10 Secretariat services are provided by the Office of the IOT Administrator.⁹ The Department of Infrastructure and Regional Development (DIRD) said that the RDO was designed to be independent in the long term, supported by grant funding, however this has not occurred. In the absence of funding, the RDO has not been able to employ dedicated staff.¹⁰

- 3.11 The RDO was established to facilitate economic development in the IOT:

It will work with local businesses, community organisations and individuals to develop strategic priorities for economic diversification, proposals for economic development and funding applications.¹¹

6 Department of Infrastructure and Regional Development, *Submission 36*, p. 3; Western Australian Department of Commerce, *What is an Incorporated Association*, <https://www.commerce.wa.gov.au/consumer-protection/what-incorporated-association>, viewed 7 October 2015.

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

8 Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Christmas Island, 9 April 2015, p. 11.

9 Mr Barry Haase, Administrator, *Committee Hansard*, Christmas Island, 9 April 2015, p. 29.

10 Department of Infrastructure and Regional Development, *Submission 36*, p. 3.

11 Office of the Administrator Indian Ocean Territories, *Community Bulletin No: A50/2012*, New Regional Development Organisation for the Indian Ocean Territories, 10 September 2012,

- 3.12 DIRD said founding members of the RDO envisaged that it would be the peak body for economic development in the IOT. However, the Department acknowledged that achieving these objectives has been difficult:

[the RDO] has...struggled to find a role and deliver cogent outcomes.

There is concern amongst a number of parties about the RDO's lack of focus, defined role and outcomes. Many argue that the lack of focus stems from a lack of clarity about the RDO's purpose.¹²

- 3.13 Mr Alan Bradley, Executive Officer, Regional Development Australia Midwest Gascoyne said that the RDO is 'not a self-autonomous body, it is simply an advisory group to the Administrator:'

This diminishes its ability to provide services and generate its own sustainable future.¹³

RDO and the Community Development Grants Program

- 3.14 The Committee received little detailed evidence on the RDO. However, during the inquiry, there was recurrent criticism that the RDO has deviated from its original aim to develop and deliver 'strategic priorities for economic diversification.' Witnesses claimed that its sole function appears to be to prioritise applications to DIRD's Community Development Grants Program (CDGP).¹⁴

- 3.15 Cocos (Keeling) Islands resident and RDO member, Mr Raymond Marshall said that the RDO's involvement in the CDGP is superfluous:

At present the RDO has no other role than to ease the Government's load by prioritising [CDGP] submissions, a job that

http://www.indianoceanterritories.com.au/Assets/Documents/A50-2012_New_Regional_Development_Organisation_for_the_Indian_Ocean_Territories.pdf, viewed 7 October 2015.

¹² Department of Infrastructure and Regional Development, *Submission 36*, p. 3.

¹³ Regional Development Australia Midwest Gascoyne, *Submission 16*, p. 3.

¹⁴ Christmas Island Tourism Association, *Submission 26*, p. 8; Mr Raymond Marshall, *Submission 29*, p. 2; Mr Barry Haase, Administrator, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 8; Regional Development Australia Midwest Gascoyne, *Submission 16*, p. 3.

is scrutineered by bureaucrats in Canberra anyway. This is a complete and utter waste of my time as a community volunteer.¹⁵

3.16 The Christmas Island Tourism Association (CITA) was also critical:

When the latest iteration to support economic and community development was set up there were hopes that [RDO] would be able to make a broad positive impact. This has not occurred and the whole purpose of the organisation appears to be providing input to the Minister on priorities for the \$1.5 [million CDGP]. This program is significant to the community, is a financial enabler and it is important that there is local input. But the key role of the community and economic development is missing.¹⁶

3.17 Others argued that the RDO's involvement in the CDGP process is essential. DIRD said:

The [RDO] plays an important role in reviewing and providing advice on the relative priorities of projects seeking funding from the [CDGP].¹⁷

3.18 The RDO Chair and Administrator Mr Barry Haase emphasised the value of local input in prioritising community grant applications:

[The RDO's] contribution to the appraisal of all the grant applications and their advice on local priorities was a very important part of the assessment process [for the CDGP].¹⁸

RDO and MINTOPE – developing agriculture

3.19 Established in 2012, the MINTOPE project is a research partnership between Murdoch University and Phosphate Resources Limited which seeks to evaluate the scientific merit of establishing agriculture on exhausted mining leases on Christmas Island.¹⁹

3.20 The CDGP, informed by the RDO, has been a significant source of funding for the MINTOPE project with grants for \$170,000 and \$147,800 awarded

15 Mr Raymond Marshall, *Submission 29*, p. 2.

16 Christmas Island Tourism Association, *Submission 26*, p. 8.

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

18 Office of the Administrator Indian Ocean Territories, *Community Bulletin A41/2015*, 8 September 2015, p. 1.

19 Mining to Plant Enterprises (MINTOPE) Project, *Submission 34*, pp. 1-3.

in 2014 and 2015 respectively.²⁰ MINTOPE reported that the community development grants assisted in the collection of preliminary results that indicate agricultural opportunities on exhausted mining leases exist.²¹

3.21 Calmy Planning and Design indicated that the MINTOPE project was one RDO initiative that had ‘a tangible prospect in advancing economic development in the IOT.’²²

3.22 The mining company Phosphate Resources Limited agreed:

MINTOPE has been the only project with the objective of advancing some alternative economic development that has been recently funded.²³

Trial cultivation of industrial hemp and medicinal cannabis on Christmas Island

3.23 The cultivation of industrial hemp²⁴ is something that MINTOPE has had a long standing interest in trialling. Professor John Howieson, Research Director, MINTOPE stated:

MINTOPE, from its inception, has proposed the evaluation of high value pharmaceutical crops on [Christmas Island]. One of these we considered to be a likely candidate was industrial hemp, along with perfumes and other crops such as vanilla. We intended to evaluate the agronomy of industrial hemp, and this might be used as a guide to whether the cultivation of [medicinal marijuana] might also be successful, as they are all selections out of *Cannabis sativa*.²⁵

3.24 Professor Howieson indicated that he applied for a license to grow industrial hemp in November 2015 and is awaiting ministerial approval:

I applied for a research license together with Neil Ballard under the *WA Industrial Hemp Act 2004*. This covers the cultivation and harvesting of hemp for experimental purposes. It may not be a sufficient piece of legislation to cover growing medical marijuana... The Act covers hemp cultivars that carry less than 0.2

20 The Hon Jamie Briggs MP, Assistant Minister for Infrastructure and Regional Development, ‘IOT Community Grants Programme Delivered’, *Media Release*, June 2014; Office of the Administrator Indian Ocean Territories, *Community Bulletin A41/2015*, 8 September 2015, p. 1.

21 Mining to Plant Enterprises (MINTOPE) Project, *Submission 34*, pp. 2-3.

22 Calmy Planning and Design, *Submission 20*, p. 4.

23 Phosphate Resources Limited, *Submission 1*, p. 4.

24 Industrial hemp is the fibre of the cannabis plant, extracted from the stem and used to make rope, strong fabrics, fibreboard and paper. Source: Oxford Dictionaries online.

25 Mining to Plant Enterprises (MINTOPE) Project, *Submission 34.2*, p. 1.

per cent of [tetrahydrocannabinol] THC, which is the hallucinogenic chemical. Other chemicals in both [medicinal marijuana] and industrial hemp have pharmaceutical properties.²⁶

- 3.25 According to Professor Howieson, industrial hemp trials would take place on the rehabilitated mining land on Christmas Island:

The trials would take place on lands available to the MINTOPE program, which are 10 ha of old mining leases that have been rehabilitated by the MINTOPE program to agricultural purposes, and zoned accordingly. These sites have been levelled and contoured, deep ripped by a chisel plough, with stones and sticks then removed, and had their chemical fertility improved during 2015 by the cultivation of legumes and the addition of key limiting nutrients. The trials will be surrounded by other broad acre crops.²⁷

- 3.26 When questioned on the anticipated success of the trials, Professor Howieson commented:

There is anecdotal evidence that hemp grows well on Christmas Island, but that is growing under shaded and very well-cared for circumstances. To grow hemp under broad acre, rain fed conditions, exposed to other biological agents is a different question altogether, but I am mildly optimistic we can do so successfully.²⁸

- 3.27 If the trial proceeds it will involve extensive assessments:

We need to evaluate whether the plant can grow in the soil as prepared by MINTOPE, whether it can flower and set seed under the prevailing day length and rainfall intensities, tolerate insects and be harvestable. We will then assess the correct time to plant, and the impact of the environment on the chemical make-up of the plant and its reproductive parts.²⁹

- 3.28 In 2015 Australian company AusCann expressed interest in growing medicinal cannabis on Christmas Island, owing to favourable climate and security aspects. AusCann stated:³⁰

26 Mining to Plant Enterprises (MINTOPE) Project, *Submission 34.2*, p. 2.

27 Mining to Plant Enterprises (MINTOPE) Project, *Submission 34.2*, pp. 2-3.

28 Mining to Plant Enterprises (MINTOPE) Project, *Submission 34.2*, p. 2.

29 Mining to Plant Enterprises (MINTOPE) Project, *Submission 34.2*, p. 2.

30 AusCann, *Submission 52*, p.1.

In particular we note that the amount of available daylight hours is critical to triggering cannabis plant flowering. Christmas Island experiences minimal changes to its daylight hours, so it is feasible that we could produce two crops a year.³¹

3.29 AusCann said it has an arrangement with a Spanish plant breeding company, Phytplant Research S.L., which specialises in the breeding of medicinal plants. This arrangement provides AusCann with exclusive access to high quality medicinal strains of cannabis. AusCann and Murdoch University in WA are collaborating to undertake a breeding program with these plants.³²

3.30 While this is separate to the MINTOPE research being conducted at Murdoch University, MINTOPE said AusCann had contacted them:

AusCann were made aware of the potential for agricultural crops on Christmas Island following the MINTOPE trials in 2015. Specifically, there was some press coverage of the field day... we ran on [Christmas Island] in late May [2015], and AusCann contacted me on July 24. We met the following week. Prior to this, they were considering Norfolk Island as a site for the cultivation of medicinal marijuana.³³

3.31 AusCann noted commonalities with some of MINTOPE's work:

Our interest was originally developed with the Administrator of the Island who advised that Christmas Island was looking at enabling new industries that could bring benefit to the island. He advised that Murdoch as also undertaking growing trials under the MINTOPE project. This fitted nicely with our plans as some of the strains we are keen to develop and test the growing abilities of are cannabis strains that have little or no THC. These strains could be classified as hemp and grown under a hemp license. Murdoch's hemp license is currently pending. Once this has been finalised we can progress with the necessary import and quarantine permits.³⁴

31 Business Insider Australia, *This Australian medicinal cannabis company plans to grow marijuana on Christmas Island*, <http://www.businessinsider.com.au/this-australian-medicinal-cannabis-company-plans-to-grow-marijuana-on-christmas-island-2015-12>, 9 December 2015, viewed 21 January 2016.

32 AusCann, *Submission 52*, p. 1.

33 Mining to Plant Enterprises (MINTOPE) Project, *Submission 34.2*, p. 1.

34 AusCann, *Submission 52*, p. 1.

- 3.32 MINTOPE emphasised that its trials of industrial hemp will be independent of AusCann, or any other companies' intentions to grow medicinal cannabis:

We have not undertaken to grow industrial hemp specifically for AusCann, nor for anyone else other than the MINTOPE stakeholders, but I have alerted AusCann to our intentions and that the outcomes could be useful to their planning. Other companies have shown interest since the press reports during late 2015 and early 2016.³⁵

- 3.33 AusCann said that if its growing trials are successful it would commercially grow medicinal cannabis strains in conjunction with the Hidden Garden Sustainable Farm project on Christmas Island.³⁶ The Hidden Garden project is on 22 hectares of Crown land and aims to supply lower cost fruit and vegetables to residents.³⁷ According to AusCann, local Mark Bennett (whose company has been granted a 21 year agricultural lease to undertake the Hidden Garden project) advised that an arrangement with AusCann would benefit the Christmas Island community:

... by enabling his Hidden Garden project to provide cheaper fruit and vegetable faster than currently projected.³⁸

- 3.34 The Australian Government introduced the *Narcotic Drugs Amendment Bill 2016* in February 2016 to legalise growing cannabis for medicinal and scientific purposes. AusCann said it would plant its first crop for the domestic market in late 2016 if the bill is passed:³⁹

Our ability to cultivate will obviously be subject to the Commonwealth passing the necessary amendments to the Narcotic Drugs Act, establishing the regulatory regime and granting AusCann a license.⁴⁰

- 3.35 The media reported some residents' concerns about the proposal to grow medicinal cannabis on Christmas Island. AusCann Managing Director, Ms

35 Mining to Plant Enterprises (MINTOPE) Project, *Submission 34.2*, p. 1.

36 AusCann, *Submission 52*, p. 1.

37 Department of Infrastructure and Regional Development, *Submission 36*, p. 3.

38 AusCann, *Submission 52*, p. 2.

39 Sydney Morning Herald, *Australian Company AusCann to grow medicinal marijuana on Christmas Island*, <http://www.smh.com.au/business/australian-company-auscann-to-grow-medicinal-marijuana-on-christmas-island-20151209-glj7xg.html>, 9 December 2015, viewed 12 January 2016; The Hon Sussan Ley MP, Minister for Health, Aged Care and Sport, 'Medicinal cannabis to be cultivated through single national scheme', *Media Release*, 2 December 2015.

40 AusCann, *Submission 52*, p. 2.

Elaine Darby indicated the company would fully consult the community and that it was investigating ways to deliver financial benefits back to the community:

If our commercial plans proceed as expected, we will create local employment and provide a vital boost to the local economy.⁴¹

3.36 AusCann added:

If AusCann and Hidden Garden were given a licence to cultivate there would be numerous benefits to the Christmas Island community, including engagement of local businesses, direct local employment and upskilling associated with setting up the project as well as ongoing activities...We are planning to head up to Christmas Island February [2016] to discuss the project further with the community.⁴²

3.37 In another media report, AusCann Chairman, Dr Mal Washer said the local community was supportive of medicinal cannabis cultivation. He also noted that the Administrator had been proactive:

...he's been doing a lot of work with the health department (Federal Health Minister, Sussan Ley's Office) and the Department of Infrastructure...⁴³

Committee comment

3.38 In its interim report, the Committee endorsed the MINTOPE project's success to-date and its prospects for further economic development and diversification.

3.39 The Committee acknowledges the RDO's contribution to-date helping secure community grants, be it for MINTOPE or others, to benefit the communities on Christmas Island and the Cocos (Keeling) Islands.⁴⁴

41 Sydney Morning Herald, *Australian Company AusCann to grow medicinal marijuana on Christmas Island*, <http://www.smh.com.au/business/australian-company-auscann-to-grow-medicinal-marijuana-on-christmas-island-20151209-glj7xg.html>, 9 December 2015, viewed 12 January 2016; Sydney Morning Herald, *Christmas Island medical cannabis plan: community expresses concern*, <http://www.smh.com.au/federal-politics/political-news/christmas-island-medical-cannabis-plan-community-expresses-concern-20151228-glw2nj.html>, 2 January 2016, viewed 21 January 2016.

42 AusCann, *Submission 52*, p. 2.

43 AAP, *Cannabis hub plans for Christmas Island*, <http://www.skynews.com.au/news/national/2015/10/18/cannabis-hub-plans-for-christmas-island.html>, 18 October 2015, viewed 21 January 2016.

- 3.40 The Committee notes that the Administrator and others support proposals like MINTOPE and AusCann's, to trial the cultivation of industrial and medicinal cannabis products on Christmas Island. These are interesting proposals.
- 3.41 The Committee notes that much research remains to be undertaken in order to establish the scientific and commercial viability of commercial crops, by MINTOPE, AusCann and any others. Notwithstanding that, enabling legislation and regulatory requirements, together with community support needs to be part of any of these proposals moving forward.

Future of the RDO

- 3.42 Administrator and RDO Chair, Mr Barry Haase suggested that the RDO should operate independently of the office of the Administrator:
- ...just as it ought to be independent of government and the [DIRD].⁴⁵
- 3.43 Mr Haase emphasised the need for adequate funding 'to create that function.'⁴⁶
- 3.44 The Shire of Christmas Island similarly wants to see additional funding, and economic expertise at the helm:
- We think reform of the RDO may be very useful, but it will not be at all useful if it is not a fully funded regional development organisation – fully funded by the Commonwealth and staffed by a professional economist as executive director with necessary support staff.⁴⁷
- 3.45 Mr Herve Calmy, Director of Calmy Planning and Design also argued that the RDO requires an operational budget and 'a permanent secretary with economic background and qualifications.'⁴⁸ Mr Calmy emphasised that the RDO should only be concerned with economic development and not

44 Details on the latest Community Development Grants Program round can be obtained from the website of the Department of Infrastructure and Regional Development, http://regional.gov.au/territories/indian_ocean/iot_grants.aspx, viewed 18 January 2016.

45 Mr Barry Haase, Administrator, *Committee Hansard*, Christmas Island, 9 April 2015, p. 29.

46 Mr Barry Haase, Administrator, *Committee Hansard*, Christmas Island, 9 April 2015, p. 29.

47 Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Christmas Island, 9 April 2015, p. 11.

48 Calmy Planning and Design, *Submission 20*, p. 5.

the allocation of community grants, something he said should be left to the shires, in collaboration with DIRD.⁴⁹

3.46 Mr Calmy added that the RDO would benefit from a more 'balanced and economically focussed' membership including:

... [DIRD] and other relevant agencies' officials, shire representatives, heads of local organisations, captains of industry and qualified economic experts thus allowing better interaction between government representatives and non-government representatives.⁵⁰

3.47 RDO member, Mr Marshall argued that the RDO's responsibilities should be expanded to incorporate ongoing community consultation, and even direct involvement in tourism and the negotiation of Service Delivery Arrangements (SDA).⁵¹

3.48 DIRD reported that the RDO intends to review its structure and functions, with a view to enhancing its contribution to economic development. This is something that DIRD endorses:

The RDO proposes to review its scope, structure and focus, with a view to improving its effectiveness and enhancing its contribution to the growth of the IOT. The Department supports this work, and notes that the RDO has considerable potential to engage with the community and Department, provide informed advice on economic development opportunities and support the sustainability of the local economy.⁵²

Committee comment

3.49 It remains to be seen whether factors such as moving away from its focus on the CDGP, additional dedicated funding, economic expertise, independence and revised membership, are key determinants for enhancing the RDO's economic impact in the IOT, beyond prioritising community grant applications.

3.50 The Committee supports the RDO's proposal to review its scope, structure and functions. Community engagement in the review is imperative.

49 Calmy Planning and Design, *Submission 20*, p. 4.

50 Calmy Planning and Design, *Submission 20*, p. 4.

51 Mr Raymond Marshall, *Submission 29*, p. 2.

52 Department of Infrastructure and Regional Development, *Submission 36*, p. 3.

Recommendation 5

The Committee recommends that the Department of Infrastructure and Regional Development review the scope, structure and functions of the Regional Development Organisation and publish the outcomes of the review on the Department's website.

If the review reveals that the organisation has merit in continuing, dedicated funding should be provided to support its scope, structure and functions.

- 3.51 While the Committee received little evidence on the merits of reestablishing a chamber of commerce on Christmas Island, it may be that is at least as important as having the RDO in its current or future forms.
- 3.52 The Committee is of the view that sustainable economic growth is better driven by the private sector with assistance from the RDO. Economic development in the territories would benefit from the re-establishment of a chamber of commerce on Christmas Island to provide some private sector leadership and to collaborate with the RDO.

Land management and development

Overview

- 4.1 The Department of Infrastructure and Regional Development (DIRD) stated that:

While there is a natural limit to the amount of land available for development in the Indian Ocean Territories (IOT), many argue that the release of land can stimulate economic development.¹

Where we have released industrial land the opportunities have not been taken up by the private sector. We released some industrial land up near the electricity station on Christmas Island a couple of years ago. It is a bit of a chicken and egg. Where is demand?

Where is supply?²

- 4.2 In successive Joint Standing Committee on the National Capital and External Territories (JSCNCET) inquiries, witnesses have consistently argued that Commonwealth land release, together with effective land use policies will help stimulate economic development.³
- 4.3 Calmy Planning and Design asserted that land release is essential for economic development on Christmas Island:

1 Department of Infrastructure and Regional Development, *Submission 36*, p. 5.

2 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 10 September 2015, p. 9.

3 See previous reports, for example, Joint Standing Committee on the National Capital and External Territories, *Inquiry into the changing economic environment in the Indian Ocean Territories*, March 2010, pp. 40 and 100-105.

Without making land accessible to investors the opportunity for Christmas Island to ever reach a self-sufficient economy is fundamentally compromised, if not impossible.⁴

4.4 Phosphate Resources Limited restated its requirement for more land to sustain mining operations on Christmas Island:

... it needs to be understood that, without access to additional vacant Crown land, on current parameters, it is unlikely that the operation will be commercially viable beyond the early [twenty] twenties.⁵

4.5 The Christmas Island and Cocos (Keeling) Islands tourism associations commented that visitor numbers to the IOT could be increased if suitable land was made available for additional tourist accommodation:

Appropriate sustainable tourism developments will assist in raising the current tourism levels...⁶

4.6 Whilst acknowledging importance of maintaining the unique culture on Home Island, Mr Barry Haase, the Administrator expressed his view that a tourist resort could be developed on Horsburgh Island, one of the Cocos (Keeling) Islands, if land were to be made available:

We ought to be giving consideration to the identification of specific land – islands, if you like – with the clearing of encumbrances with the idea of making available a 99-year lease on the basis of huge, multibillion investment. That would give international tourists specifically from Europe an opportunity to come through Asia and through Christmas Island and on a shuttle service to the Cocos (Keeling) Islands.⁷

4.7 The Mining to Plant Enterprises project (MINTOPE) envisaged a range of business opportunities stemming from its agricultural research and trials on Christmas Island (from growing produce for feeding poultry, fish or livestock, as well as for selling fresh produce to the local population). According to MINTOPE, this will require:

... that businesses lease [Crown] land to operate those ventures.⁸

4 Calmy Planning and Design, *Submission 20*, p. 6.

5 Phosphate Resources Limited *Submission 1*, p. 3.

6 Christmas Island Tourism Association and the Cocos (Keeling) Islands Tourism Association, *Submission 45*, p. 2.

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

8 Mining to Plant Enterprises (MINTOPE) Project, *Submission 34.1*, p. 1.

Chapter outline

- 4.8 The chapter starts with a description of the geographical characteristics of the IOT, before briefly describing the land management framework and availability of land for development in the IOT.
- 4.9 The chapter looks at two key areas for action. The first priority is a geological survey to comprehensively map Christmas Island's limestone, basalt and water catchment systems. The second is to review and modernise or replace the Cocos (Keeling) Islands land trust.
- 4.10 Consideration is then given to developing an updated land management strategy to support the lease or sale of vacant or underutilised Commonwealth-owned Crown land, and the possible need for a Crown land disposal ordinance.
- 4.11 Lastly, the Committee gives consideration to proposals to transfer underutilised Commonwealth property on Cocos (Keeling) Islands to the Shire of Cocos (Keeling) Islands to increase economic activity, and to redress social issues like housing shortages.

Profile of the Indian Ocean Territories

- 4.12 Christmas Island is located in the Indian Ocean 380 kilometres south of Java and 2,650 kilometres north-west of Perth.⁹ It has a resident population of approximately 2,017 people with an ethnic composition of 60 per cent Chinese, 25 per cent Malay and 15 per cent European.¹⁰
- 4.13 The *Christmas Island National Park Management Plan 2014-2024* provides a snapshot of the island's geology and land use:

Christmas Island is an isolated oceanic island approximately 135 square kilometres in area, located in the eastern Indian Ocean. It rises steeply from the sea floor from depths of 5,000 metres. The island geology consists of porous limestone derived from ancient coral reefs overlaying volcanic basaltic rock. A uniquely structured tropical rainforest covers most of the island. About one quarter of the island has been cleared for mining and settlement purposes since 1888.¹¹

9 Department of Infrastructure and Regional Development, *Territories of Australia*, http://regional.gov.au/territories/christmas/enviro_heritage.aspx, viewed 11 January 2016.

10 Department of Infrastructure and Regional Development, *Territories of Australia*, http://regional.gov.au/territories/christmas/enviro_heritage.aspx, viewed 11 January 2016.

11 Australian Government Director of National Parks, *Christmas Island National Park Management Plan 2014-2024*, p. 2.

- 4.14 Around 63 per cent of Christmas Island is National Park, managed by the Director of National Parks and supported by Parks Australia, which operates within the Commonwealth Department of Environment.¹² Much of the remaining land area is Crown land administered on behalf of the Commonwealth by the Department of Infrastructure and Regional Development (DIRD), as the Department with ultimate responsibility for the IOT.
- 4.15 The Cocos (Keeling) Islands are located in the Indian Ocean 2,950 kilometres north-west of Perth and 3,700 kilometres west of Darwin. There are 27 coral islands in the group; with a total land area of 14 square kilometres. Apart from North Keeling Island, which is 30 kilometres away from the main group, the islands form a horseshoe-shaped atoll surrounding a lagoon. North Keeling Island was declared a national park in 1995 and is administered by The Director of National Parks.¹³
- 4.16 The Shire of Cocos (Keeling) Islands website adds:
- The islands lie...approximately 900 km south-south west of Christmas Island and approximately 1,000 km south-west of Java and Sumatra. The highest point above sea level is nine metres which is located on South Island...
- The two inhabited islands are Home Island, the home of the Cocos Malay community and the Shire office, with a population of 466, and West Island on which is located the airport, government offices, homes of government and contracted employees and some private residents, with a population of 141.¹⁴

Crown land management framework

- 4.17 Crown land is land owned by the Commonwealth, or a state or territory government.¹⁵ In the absence of state or territory government, all Crown land in the IOT is essentially Commonwealth owned.
- 4.18 DIRD advised that its land management policies for the IOT require the release and approval of long-term leases of Crown land in the IOT to be subject to whole-of-government policies established and administered by the Commonwealth Department of Finance:
-

12 Director of National Parks, *Submission 14*, p. 2.

13 Department of Infrastructure and Regional Development, *Cocos (Keeling) Islands*, http://regional.gov.au/territories/Cocos_Keeling/, viewed 20 January 2016.

14 Shire of Cocos (Keeling) Islands, *The Shire*, <http://www.shire.cc/en/your-council/about-us/40-profile.html>, viewed 11 January 2016.

15 *Lands Acquisition Act 1989* (Cth), s. 6.

The sale or lease of Crown land in the IOT is in accordance with the Commonwealth Property Disposal Policy (CPDP), which is a whole-of-government policy concerning the release of Commonwealth administered Crown land in Australia.

- The General Policy of the CPDP is, 'Commonwealth Property, having no alternative efficient use, is to be sold on the open market at full market value.'

...Long term leases of Crown Land may also be approved under the CPDP by the Minister with responsibility for Territories under the [Land Administration Act] (WA) (CI) and the [Land Administration Act] (WA) (CKI).¹⁶

- 4.19 A Crown Land Management Plan (CLMP) prepared in 2009 by GHD for the Attorney-General's Department¹⁷, the Department responsible for the administration of the IOT at the time, provides a framework for land use activities in the IOT.
- 4.20 According to DIRD, some aspects of the 2009 CLMP have already been implemented. DIRD also advised that it intends to update the CLMP and prepare a complementary Commonwealth Asset Management Plan for the IOT in 2015-2016 to inform policy recommendations on land management.¹⁸ This will be discussed in more detail later in the chapter.
- 4.21 At a local level both, the Shire of Christmas Island and the Shire of Cocos (Keeling) Islands, have responsibility for developing and administering town planning schemes. These schemes govern the way that land may be used and developed through land use zoning by:
- setting out the shires' planning intentions for land within the schemes;
 - reserving land for public purposes;
 - establishing parameters for land use and development;
 - setting out the process for the assessment of planning applications; and
 - making provisions for the administration and enforcement of the schemes.¹⁹

16 Department of Infrastructure and Regional Development, *Submission 36.4*, p. 1.

17 Attorney-General's Department, *Report for the Crown Land Management Plan for the Indian Ocean Territories 2009*.

18 Department of Infrastructure and Regional Development, *Submission 36*, p. 5.

19 Shire of Christmas Island, *Building and Planning*, <http://www.shire.gov.cx/en/shire-services/building-and-planning>, viewed 15 February 2016; Shire of Cocos (Keeling) Islands, *Shire of Cocos (Keeling) Islands Town Planning Scheme No. 1*, <http://www.shire.cc/en/services/town-planning.html>, viewed 8 January 2016; Western Australian Planning Commission, *Shire of Christmas Island draft Local Planning Scheme No. 2 and draft Local Planning Strategy*, <http://www.planning.wa.gov.au/publications/6402.asp>, viewed 1 March 2016.

Available land

- 4.22 Development of land in the IOT is restricted by the limited availability of suitable land, various land ownership arrangements, and ambiguities around policies and procedures for releasing land for lease or sale. Other factors further limiting available land for development include ecological, climatic and geological considerations.
- 4.23 On Christmas Island, responsibility for Crown land is primarily split between the Director of National Parks and DIRD, with the Shire of Christmas Island and Phosphate Resources Limited also managing small allotments.²⁰
- 4.24 As noted earlier, around 63 per cent of the land on Christmas Island is National Park. Outside of the National Park, the remaining land area comprises:
- mining leases which incorporate approximately 14 per cent of the island;
 - other committed land which encompasses around four per cent; and
 - uncommitted land representing the remaining 19 per cent.²¹
- 4.25 On Cocos (Keeling) Islands, there are three main types of land title including:
- Crown land, which incorporates approximately 15 per cent of the islands;
 - privately owned land, which encompasses less than one per cent; and
 - land held in trust for the benefit of the Home and West Islanders, which forms the most significant proportion of the islands at approximately 85 per cent.²²
- 4.26 As on Christmas Island, DIRD is primarily responsible for administering Crown land on the Cocos (Keeling) Islands with a proportion also held by the Shire of Cocos (Keeling) Islands.²³ The Shire of Cocos (Keeling) Islands also manages the land trust.²⁴

20 Department of Infrastructure and Regional Development, *Submission 36*, p. 5; Attorney-General's Department, *Report for Crown Land Management Plan for the Indian Ocean Territories: Christmas Island*, September 2009, p. 42; Director of National Parks, *Submission 14*, p. 2.

21 Director of National Parks, *Christmas Island National Park Management Plan 2014-2024*, 2014, p. 15.

22 Calmy Planning and Design, *Submission 20.1*, p. 1.

23 Attorney-General's Department, *Report for the Crown Land Management Plan for the Indian Ocean Territories: Cocos (Keeling) Islands*, 2009, pp. 1, 27.

24 Councillor John Clunies-Ross, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 30.

- 4.27 Susceptibility to inundation from the sea is also an important factor in determining the suitability of land for development. An Indian Ocean Territories Climate Change Risk Assessment completed for the Australian Government in 2010 and referred to in the *Indian Ocean Territories Regional Development Plan 2012-2017*, notes Cocos (Keeling) Islands' vulnerability to large storms, cyclones and rising sea levels.²⁵
- 4.28 Significant coastal erosion is already evident on the Cocos (Keeling) Islands, with the movement of sand having an impact on both Home and West Islands.²⁶ Cocos (Keeling) Islands resident, Mr Colin Bloomfield spoke of locals' concerns about increasing erosion:
- ... we are worried about the sandbagging for the erosion control along William Keeling Crescent [on West Island] ... the road is getting less and less all the time. All the main services run parallel to that road, so it is critical infrastructure on the island.²⁷
- 4.29 The Hon Paul Fletcher MP, Minister for Major Projects, Territories and Local Government inspected the coastal erosion in the Cocos (Keeling) Islands during a visit to the IOT in December 2015:
- ...I have had the opportunity to see first-hand the erosion mitigation works. The Shire Council mines local sand to fill geo-textile fabric bags, which are used on both Home Island and West Island to protect infrastructure and the natural habitat from erosion...²⁸
- 4.30 During the visit, Minister Fletcher committed over \$2 million in federal funding to boost the erosion mitigation works and minimise further damage to the coastline.²⁹
- 4.31 Although Christmas Island is better protected with high sea cliffs, the same 2010 Climate Change Risk Assessment report indicates that Flying Fish Cove on Christmas Island (home to one-third of the island's population) is also susceptible:

25 Regional Development Australia Midwest Gascoyne, *Indian Ocean Territories Regional Plan 2012-2017*, October 2012, pp. 39-40.

26 Regional Development Australia Midwest Gascoyne, *Indian Ocean Territories Regional Plan 2012-2017*, October 2012, pp. 39-40.

27 Mr Colin Bloomfield, private capacity, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 27.

28 The Hon Paul Fletcher MP, Minister for Major Projects, Territories and Local Government, 'Cocos (Keeling) Islands receive funding boost for community projects', *Media Release*, 15 December 2015, p. 1.

29 The Hon Paul Fletcher MP, Minister for Major Projects, Territories and Local Government, 'Cocos (Keeling) Islands receive funding boost for community projects', *Media Release*, 15 December 2015, p. 1.

... [Flying Fish Cove] could be affected by a general sea rise and increased frequency and magnitude of sea surges.³⁰

4.32 Lastly, the unique geology of the IOT poses some additional challenges for land development, particularly the possible impact of development on water supply and water quality.

4.33 On Christmas Island, the main issue is not necessarily the impact of development on water supply, as water is plentiful. However, there is a real risk of contamination and effects on water quality. As explained by Mr Herve Calmy of Calmy Planning and Design, knowing the extent and location of ground water is important for the development of alternative industries on Christmas Island:

...if we operate different regimes of industries, then not knowing where the water is, is a major handicap because there is then the environmental questions:

- Are you doing your activities in the right place?
- Are you sure you are not going to pollute those waters?³¹

4.34 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands indicated that, in the case of Home Island, the limited availability of water is a restriction on development:

...water is at capacity. So we cannot do any development of Home Island that increases the population because of the restrictions that the [Western Australian] Water Corporation put on us.³²

4.35 However, the recent construction of a desalination plant on Home Island is expected to relieve pressure on the Island's ground water catchment. Minister Fletcher turned on the plant during his visit to the IOT in 2015:

I also had the opportunity while on Home Island to flick the switch on the new desalination plant, completed with \$3.7 million of Australian Government funding, and taste the fresh water it will provide to the community to supplement the natural ground water supply.³³

30 Regional Development Australia Midwest Gascoyne, *Indian Ocean Territories Regional Plan 2012-2017*, October 2012, pp. 39-40.

31 Mr Herve Calmy, Director, Calmy Planning and Design, *Committee Hansard*, Canberra, 10 September 2015, p. 5.

32 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Canberra, 20 August 2015, p. 5.

33 The Hon Paul Fletcher MP, Minister for Major Projects, Territories and Local Government, 'Cocos (Keeling) Islands receive funding boost for community projects', *Media Release*, 15 December 2015, p. 1.

Committee comment

- 4.36 The complex land ownership arrangements and unique ecological, geographical and climatic conditions of Christmas and the Cocos (Keeling) Islands limit the development potential of the IOT. Both territories are susceptible to ocean inundation and this issue is compounded on Cocos (Keeling) Islands by the presence of severe coastal erosion. Christmas Island ground water remains vulnerable to contamination and the supply of potable water on the Cocos (Keeling) Islands is limited.
- 4.37 The Committee recognises that steps to redress these issues are already being taken, including federally funded erosion mitigation works and the construction of a desalination plant. These are important initiatives. The Committee saw the extent of coastal erosion on West and Home Islands during their visit to the IOT in April 2015 and is pleased to see the Commonwealth support efforts to address this issue. However, further work is required.
- 4.38 The Committee notes that there is consensus amongst stakeholders that the controlled release of Crown land in the IOT for lease or sale is critical to underpin economic development. Given the complex factors limiting development in the IOT, a robust land management framework is needed to guide investor interest.
- 4.39 The next sections of this chapter review some of the key barriers to land development and consider options to support future development that is responsible, sustainable and which maximises the potential for positive economic outcomes.

Barriers to land development

- 4.40 Various barriers to land development were raised during the inquiry, including:
- a lack of geological information on Christmas Island;
 - the need to reform or replace the land trust on Cocos (Keeling) Islands;
 - a lack of a strategic vision from the Australian Government for land management in the IOT, and the absence of a land management framework to enable the release of land for lease or sale to support development.

Geological mapping of Christmas Island

- 4.41 Evidence from a number of sources has indicated that a comprehensive geological survey is required on Christmas Island, to identify land that is suitable for development.
- 4.42 Christmas Island's groundwater catchment is managed by the WA Water Corporation on behalf of DIRD. The WA Water Corporation distributes fresh water by:
- ... collecting and pumping from a number of underground springs and flows around [Christmas] Island.³⁴
- 4.43 The Shire of Christmas Island's *Draft Christmas Island Local Planning Strategy* details what is known about the island's geology and groundwater systems:
- The core of Christmas Island is composed of extremely hard and impervious volcanic material which is predominantly basalt. The remnant of a coral reef forms a cap layer of limestone and phosphate deposits over the basalt core.
 - Due to a faulting in the limestone rock that sits above the basalt layer, an irregular limestone surface has resulted, with a high potential for caves and sinkholes.
 - Generally the soils on the island tend to be problematic for drainage as they are poorly developed with little clay content and in some places are highly dispersive...
 - ...the majority of rainfall leaches through the porous limestone and down to the underground basalt layer before flowing out to the ocean.³⁵
- 4.44 There are a number of unknowns which have ramifications for the island's potable water supply and for development:
- The exact locations the water flows to the ocean, or pools on the basalt layer are currently unknown.
 - The exact extent of the underground aquifer that sits on top of the basalt layer is also unknown. Whilst there is some existing [Geographical Information System data]... depicting the basalt aquifer and catchment areas, it is not sufficient to assess with the required degree of accuracy the basalt profile or water catchment areas.

34 Shire of Christmas Island, *Draft Christmas Island Local Planning Strategy*, May 2012, p. 29.

35 Shire of Christmas Island, *Draft Christmas Island Local Planning Strategy*, May 2012, p. 4.

Whilst cave mapping has been undertaken on an ad-hoc basis, there is still potentially a substantial amount of unmapped caves on the island. This has implications for the stability of future development on the island...

Any development therefore has the potential to impact upon this catchment that is used for the island's potable water supply. It is especially relevant for any expansion of industrial and land fill uses, given their increased potential for harmful substances to contaminate the water supply.³⁶

- 4.45 The need for a geological survey to inform land release has been recognised for some time. The 2009 *Report for Crown land Management Plan for the Indian Ocean Territories Christmas Island* stated:

The need to conduct geotechnical surveys on [Christmas Island] remains essential for the orderly upgrade of the Local Planning Scheme and subsequently providing direction in the Town Planning Scheme. In addition to the geotechnical surveys and assessments of potential cave sites, it is clear that a geotechnical survey of the underlying basalt must also be carried out to better understand the ultimate fresh water potential of the island. Ideally, such investigations would need to take place prior to the finalisation of land use planning...³⁷

- 4.46 Christmas Island resident, Mr Chris Su observed that it is by chance that development on Christmas Island to-date has not contaminated the groundwater:

It is by sheer chance that in 120 years of mining and human activity we have not contaminated the water table yet. Mapping of the basalt rock strata - where the water lies underground - is necessary for the next 120 years [of development].³⁸

- 4.47 Councillor Gordon Thomson, President of the Shire of Christmas Island also emphasised the critical importance of geological mapping to development:

Continuing uncertainty about the risks associated with the limestone structure and how the water flows over the basalt layer

36 Shire of Christmas Island, *Draft Christmas Island Local Planning Strategy*, May 2012, pp. 4-6.

37 Attorney-General's Department, *Report for the Crown land Management Plan for the Indian Ocean Territories Christmas Island*, 2009, p. 5.

38 Mr Chris Su, *Submission 43*, p. 4.

are fundamentally restraining planning and development of social and economic infrastructure.³⁹

4.48 Former Administrator, Mr Brian Lacy agreed:

There is an urgent need for the Government to undertake mapping of the basalt as a precursor to any major development.⁴⁰

4.49 Mr Calmy indicated that DIRD has been approached previously in relation to the need to undertake a geological survey:

The critical need for [a geological survey] has been called for at all levels for the last six years with no action taken by [DIRD] when it is common knowledge that this is an essential priority in order to proceed confidently with a range of diverse projects.⁴¹

4.50 While DIRD acknowledged that it received several approaches relating to geological mapping on Christmas Island over the last ten years, its consideration of the matter was as a 'value-for-money exercise'.⁴²

4.51 According to DIRD's submission, a geological survey has not proceeded due to cost considerations and concerns about the available technology:

During the evaluation process, doubts were raised by [the WA] Water Corporation's hydro geologists as to whether the technology available would provide a conclusive picture (that is, that it could identify pockets of freshwater or subterranean water courses due to the dense tree canopy and poor resolution between the basalt and limestone).⁴³

4.52 The Committee sought clarification on the cost of undertaking a geological mapping exercise, and the available of suitable technology from Geoscience Australia, the Commonwealth entity responsible for providing geological information to the Australian Government. Geoscience Australia submitted that electromagnetic technology has improved in recent years:

It is theoretically possible to map the basalt and groundwater system on Christmas Island with an electromagnetic (EM) survey. In previous years there had been some doubt about the quality of the data that could be acquired but in recent years some of the EM

39 Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Canberra, 20 August 2015, p. 1.

40 Mr Brian Lacy, *Submission 39*, p. 6.

41 Calmy Planning and Design, *Submission 20*, p. 7.

42 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 10 September 2015, pp. 7-8.

43 Department of Infrastructure and Regional Development, *Submission 36.4*, p. 3.

technology has become more powerful and can give better resolution at depth while still maintaining high near-surface resolution... The most appropriate technology would be best identified through an initial scoping study and would need to be complemented by borehole information.⁴⁴

- 4.53 While noting that the cost of geological mapping exercise would depend on the survey objectives, scale, logistics and existing infrastructure, Geoscience Australia estimated that such a survey could be completed for under \$1 million.⁴⁵
- 4.54 Phosphate Resources Limited also agreed that a geological survey on Christmas Island is vitally important to provide the basis for informed decisions on land release for development and indicated that it was willing to make a financial contribution to such a survey, 'if the scope of the study is agreed with us and undertaken in a timely manner.'⁴⁶

Committee comment

- 4.55 An understanding of Christmas Island's geology and groundwater catchment is fundamental to sustainable development. Given that the need for a geological survey has long been known, the Committee is concerned that it has not yet progressed.
- 4.56 Given the delay, the Committee considers that it is now time for the Australian Government to invest in a comprehensive geological survey that maps the limestone, basalt and groundwater system on Christmas Island. Available technology should provide sufficiently detailed data to support informed decision making in relation to water management and land development.
- 4.57 The Committee acknowledges the offer from Phosphate Resources Limited to contribute towards the cost of a geological survey. This offer is timely, coinciding with the Australian Government's release of four new sites to Phosphate Resources Limited for industrial and commercial purposes. And, its granting of a phosphate exploration licence to enable further investigation of phosphate stocks, potentially extending the mining operation.⁴⁷

44 Geoscience Australia, *Submission 49*, p. 2.

45 Geoscience Australia, *Submission 49*, p. 2.

46 Phosphate Resources Limited, *Submission 1.1*, p. 2.

47 The Hon Paul Fletcher MP, Minister for Major Projects, Territories and Local Government, '50 year lease offer to Phosphate Resources Limited on Christmas Island', *Media Release*, 16 December 2015.

- 4.58 Sharing the costs of the survey with Phosphate Resources Limited is something that the Australian Government should explore further.

Recommendation 6

The Committee recommends that the Department of Infrastructure and Regional Development, as a priority, commission a comprehensive geological survey on Christmas Island to inform land development and responsible water management.

The Department of Infrastructure and Regional Development should explore the options to share the cost of the survey with Phosphate Resources Limited.

Reform of the Cocos (Keeling) Islands land trust

- 4.59 A number of witnesses have identified ambiguities related to the operation of the land trust on Cocos (Keeling) Islands as a significant impediment to economic development.⁴⁸
- 4.60 A land trust is an arrangement whereby land is managed by one person or group (known as the trustee) for the benefit of another person or group (known as the beneficiary).⁴⁹
- 4.61 In outlining land ownership arrangements on the Cocos (Keeling) Islands, Councillor John Clunies-Ross, Shire of Cocos (Keeling) Islands, explained that a land trust was established under deed from the Commonwealth following the islands' integration with Australia in 1984. Councillor Clunies-Ross elaborated:
- ...[the land trust] was set up in order to protect the [Cocos Malay] community from a land grab from outside and hyperinflation of land values... because the community was basically a rural community and it would have been quite easy to swamp them if tourism came in.⁵⁰

48 Councillor John Clunies-Ross, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 30; Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Canberra, 20 August 2015, p. 6; Mr Simon Millcock, *Submission 42*, p. 4; Councillor John Clunies-Ross, *Submission 6.2*, p. 2.

49 New South Wales Office of State Revenue, *Trusts*, <http://www.osr.nsw.gov.au/taxes/land/factsheet/trusts>, viewed 18 February 2016.

50 Councillor John Clunies-Ross, *Submission 6.2*, p. 2; Councillor John Clunies-Ross, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Canberra, 20 August 2015, p. 7.

- 4.62 Initially, two land trusts were established:
- the Home Island or Kampong trust, managed by the [now superseded] Cocos Council and incorporating land in the Kampong area; and
 - the Cocos Co-op trust, managed by the Cocos Cooperative and including all land - aside from Crown land and land captured by the Home Island land trust - namely most of West Island, Direction Island, Horsburgh Island and North Keeling Island.⁵¹
- 4.63 However, the Cocos Cooperative did not take up the Co-op trust, and it was eventually absorbed into the Home Island trust with the Cocos Council becoming trustee for the combined land trust.⁵²
- 4.64 In 1992 the trust's rights, assets and responsibilities were transferred from the Cocos Council to the Shire of Cocos (Keeling) Islands when it was formed as part of territories reform. At this time, the beneficiaries of the trust were also expanded to incorporate the islands' population more broadly.⁵³
- 4.65 Over time it appears that some land trust documents have been lost, and questions have been raised regarding the legality of the current administrative arrangements.⁵⁴
- 4.66 According to Councillor Clunies-Ross, who was tasked by the Shire of Cocos (Keeling) Islands to investigate issues associated with the land trust,⁵⁵ the trust is 'technically bankrupt' and operates as a private land trust, which he asserted is not permitted under the local government legislation.⁵⁶
- 4.67 While Councillor Clunies-Ross initially expected 'it was going to a matter of straightening a few things out,' he found that the problems with the trust are more substantive:
- It will need a fair bit of professional effort to sort it out.
...we are just working with goodwill, at this stage because there are no legal documents to base the land trust on.⁵⁷

51 Councillor John Clunies-Ross, *Submission 6.2*, pp. 1-2; Calmy Planning and Design, *Submission 20*, p. 8.

52 Councillor John Clunies-Ross, *Submission 6.2*, p. 2.

53 Councillor John Clunies-Ross, *Submission 6.2*, p. 1; Councillor John Clunies-Ross, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 30.

54 Councillor John Clunies-Ross, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 30; Councillor John Clunies-Ross, *Submission 6.2*, pp. 1-2.

55 Councillor John Clunies-Ross, *Submission 6.2*, p. 1.

56 Councillor John Clunies-Ross, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 30 and *Committee Hansard*, Canberra, 20 August 2015, p. 7.

57 Councillor John Clunies-Ross, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Canberra, 20 August 2015, p. 7.

- 4.68 DIRD confirmed there are outstanding questions surrounding the trust:
...including whether the Shire [of Cocos (Keeling) Islands] is able to sell/lease land held in trust, and the arrangements to determine community benefit should sale or lease occur.⁵⁸
- 4.69 Councillor Clunies-Ross said that investors look for certainty around land tenure and stated that in his view there needs to be clarity on how the trust operates to support economic development that serves the interest of the Cocos community:
No one is going to come near us or touch us unless the land is free and unencumbered. What is trust land, what is controlled on it and what are the trusts? We need to know what they are ...
This thing has been tied up now for 30 years ...⁵⁹
- 4.70 Mr Calmy noted that the Shire of Cocos (Keeling) Islands has been unable to develop the land captured by the land trust:
...no major revenue generating development has ever been carried out on trust land since its creation... There is also nothing to suggest that the trustee... has ever succeeded in facilitating or encouraging private investment initiatives and project development on trust land.⁶⁰
- 4.71 He argued that the land trust must be reviewed:
A review of the operation of the land trust... is necessary to improve the situation. Business as usual is not an option.⁶¹
- 4.72 The Chief Executive Officer of the Shire of Cocos (Keeling) Islands made a similar point:
We need the land trust issue to be sorted out...⁶²
- 4.73 Councillor Clunies-Ross called for the land trust to be rewritten, and made the following suggestions:
- the Home Island trust be reformed to take in the whole island (other than freehold) to enhance the resilience of the Home Island's social fabric; and

58 Department of Infrastructure and Regional Development, *Submission 36.4*, p. 3.

59 Councillor John Clunies-Ross, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 30.

60 Calmy Planning and Design, *Submission 20.1*, p. 3.

61 Calmy Planning and Design, *Submission 20*, p. 8.

62 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Canberra, 20 August 2015, p. 6.

- a second trust be established for the remaining trust land, to operate in accordance with the local government legislation and allow divestment of land for the benefit of the community.⁶³

4.74 However, DIRD argued that it is the responsibility of Shire of Cocos (Keeling) Islands, as trustee of the land trust, to seek legal assistance to resolve any outstanding issues:

As the custodian of the land, the Shire should seek legal advice on the process to sell or lease trust land, and any conditions or arrangements attached to this.⁶⁴

Committee comment

4.75 Information on how the land trust operates on the Cocos (Keeling) Islands is scant and much remains unclear. Even the legitimacy of the current administrative arrangements is under question. As it currently stands, the land trust offers little benefit to the community it was set up to serve and makes little contribution to the economic development of Cocos (Keeling) Islands.

4.76 Thirty years after its establishment, it is time for a legal specialist to undertake comprehensive review of the trust, with a view to reforming or replacing it so that land can be leased or sold for economic development where this is in the interest of the community. Although DIRD expressed the view that the Shire of Cocos (Keeling) Islands should be responsible for commissioning a legal review of the trust, the Committee does not agree. Rather, the Committee considers that the legal review of the trust should be the responsibility of DIRD, given its role in administering the IOT. The trust is a legacy issue that has been inherited by the Shire as a result of the islands' unique history and governance arrangements.

4.77 While a review of the trust presents an opportunity to lay a new foundation for economic prosperity and potentially generate employment opportunities, it is essential that the current beneficiaries of the trusts, the residents of the Cocos (Keeling) Islands, are part of this review process. Any new arrangements need to ensure the best interests of Cocos (Keeling) Islanders into the future.

63 Councillor John Clunies-Ross, *Submission 6.2*, pp. 2-3.

64 Department of Infrastructure and Regional Development, *Submission 36.4*, p. 3.

Recommendation 7

The Committee recommends that the Department of Infrastructure and Regional Development engage a legal specialist to review the land trust on the Cocos (Keeling) Islands to determine legal ownership and control of all land with a view to reforming or replacing it.

New arrangements must be informed by agreement with trust beneficiaries, define the responsibilities and obligations of trustees to the people of the Cocos (Keeling) Islands, and subject to probity considerations, enable land to be leased or sold in support of economic development.

Land management framework

Lack of strategic vision and commitment

- 4.78 The bulk of development opportunities in the IOT are offered by uncommitted or underutilised Crown land. However, a number of witnesses identify the absence of a coherent, coordinated, long-term strategy to support the development of such land as a significant impediment to development.⁶⁵ As Mr Lacy observed:

Potential investors are dissuaded ... from undertaking major projects by the impression that the Australian Government does not have a clear vision of the future for the Islands. Availability of land and red and green tape provide even more disincentives.⁶⁶

- 4.79 Mr Simon Millcock, a former IOT Economic Officer (a position that no longer exists), described significant interest from private investors during his tenure on Christmas Island from 2008 to 2013. Interest included proposals for a dive resort on Christmas Island, eco-resort development on Cocos (Keeling) Islands, and redevelopment of the Cocos Co-operative Motel. However, according to Mr Millcock, the proposals failed to gain traction, as there was no agreed Government vision for the IOT:

There was a lack of governance and administrative arrangements to articulate a vision or support the local economic development strategy for the IOT as their plans and aspirations were not

⁶⁵ Mr Brian Lacy, *Submission 39*, p. 17; Mr Stephen Clay, *Submission 41*, p. 6; Mr Herve Calmy, Director, Calmy Planning and Design, *Committee Hansard*, Canberra, 10 September 2015, p. 3; Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Canberra, 20 August 2015, pp. 1-2.

⁶⁶ Mr Brian Lacy, *Submission 39*, p. 17.

incorporated or contained within the various departments involved with administering the IOT.⁶⁷

- 4.80 Mr John Sorensen, a WA businessman who owns property on Christmas Island made a similar observation:

Down on the waterfront we have six lots that are tourism zoned blocks... They have been fully developed and ready to build on, but again and again and again, when we tried to attract investors for further development and the building of tourism accommodation, there have been investigations by investors into the future outlook for Christmas Island and into Commonwealth policy and everything has fallen over...⁶⁸

- 4.81 Christmas Island resident, Ms Lisa Preston also observed investors' lack of confidence:

Investors who have shown interest in recent years are left hanging as federal and local governments are unable to co-ordinate a development vision for the island.⁶⁹

- 4.82 Another resident, Mr Chris Su explained there is no clear protocol for investors to follow:

It is currently impossible to obtain unallocated Crown land on Christmas Island through a formalised protocol. Applications for developments on these lands are assessed on an ad-hoc basis by DIRD. The value of the land remains locked for administrative reasons.⁷⁰

- 4.83 According to Mr Calmy, another consequence of the lack of strategic vision for land development in the IOT relates to the application of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act):

The lack of a whole of government public position to support development on Crown land outside the National Park boundaries [allows] the EPBC Act procedures to frustrate endlessly mining, threaten periodically the mine viability and prevent any potential investors to engage in project feasibilities on these Crown land assets.⁷¹

- 4.84 Mr Calmy suggested that a clearer signal regarding the sale or leasing of Crown land outside the National Park is required for investor confidence:

67 Mr Simon Millcock, *Submission 42*, p. 3.

68 Mr John Sorensen, Director, Northern Bay Pty Ltd, *Committee Hansard*, Canberra, 25 June 2015, p. 2.

69 Ms Lisa Preston, *Submission 28*, p. 4.

70 Mr Chris Su, *Submission 43*, p. 3.

71 Calmy Planning and Design, *Submission 20*, p. 6.

...first and foremost, the [important thing] is to clearly define what is set aside for conservation and biodiversity and what is set aside for economic development.⁷²

- 4.85 Mr Millcock suggested that the lack of a clear strategic vision for development in the IOT may reflect a lack of administrative continuity, including machinery of government changes, and changes to administrative/ portfolio responsibility:

Continuity was a major issue and during my employment of just over four years [2008-13] apart from Mr Brian Lacy there were three other Administrators. Two were Acting Administrators (Government employees) and [I was] also [there] for the start of Mr Jon Stanhope's tenure as Administrator. During this time the IOT were administered by three different Commonwealth departments and if memory is correct four different Ministers and several different IOT Directors (based in CI, Perth and Canberra). It appeared to be a revolving door and many of the community leaders expressed a lack of trust in being able to engage with their communities as different messages were often provided and different promises made with no clear strategy or approach.⁷³

- 4.86 The Shire of Christmas Island also referred to resource constraints affecting long-standing development and planning delays:

[DIRD] has struggled with under resourcing for many years, with cutbacks in staff being the primary reason for so much of our planning being ignored and development being hamstrung by ad-hoc, budget driven failure to make all of the connections that our planning arrangements required.⁷⁴

Updating the Crown land management framework

- 4.87 As noted earlier in the chapter, DIRD indicated that it intends to undertake a strategic policy review to update the Crown land management framework:

The Department will be updating the 2009 *Report for Crown Land Management Plan for the IOT* (CLMP) and developing an IOT Land Disposal Policy to support the release of land. This is a complex

72 Mr Herve Calmy, Director, Calmy Planning and Design, *Committee Hansard*, Canberra, 10 September 2015, p. 3.

73 Mr Simon Millcock, *Submission 42*, p. 3.

74 Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Canberra, 20 August 2015, p. 2.

area of territories' policy and will require consultation with stakeholders. These are expected to be developed by June 2016.⁷⁵

4.88 DIRD added:

The revised CLMP will provide an up-to-date overview of land, ownership and potential uses, including recent updates to the Town Plans for both territories. The CLMP will have a particular focus on unused and under-used land and potential areas for development and investment. It is intended to support the easy identification of land by investors for economic and community development projects.

In relation to the Asset Management Plan, the Department's initial focus will outline the process for the consideration of requests for land, including arrangements to consider applications, criteria on which decisions will be made, forms and applications and timelines for decisions. [It] is intended to more broadly review what existing Commonwealth assets in the IOT may be considered appropriate for disposal.

Combined, the intent of these two documents is to provide a clear, open and transparent framework for the supply of land and to provide certainty to potential investors.⁷⁶

Crown land disposal ordinances

4.89 Several submitters have suggested that in addition to a well-articulated Crown land management framework, ordinances may be required to support the lease or sale of Crown land in the IOT. Their views are outlined below.

4.90 Ordinance is 'a form of delegated legislation which usually applies only in a certain local area'.⁷⁷ In the IOT, the Governor-General has the power to create ordinances to amend or repeal WA law applicable to the territories.⁷⁸

4.91 Mr Su stated that in his view a legislative instrument is required:

There needs to be a legislative instrument that allows interested parties to obtain unutilised Commonwealth land on Christmas

75 Department of Infrastructure and Regional Development, *Submission 36.4*, p. 1.

76 Department of Infrastructure and Regional Development, *Submission 36.4*, p. 4.

77 Comlaw, *An A-Z of Key Jargon*, <https://www.comlaw.gov.au/content/whatisit#O>, viewed 11 August 2015.

78 Australian Law Reform Commission, 'External Territories', *Legal Risk in International Transactions (ALRC Report 80)*, <http://www.alrc.gov.au/publications/alrc-80-legal-risk-international-transactions/10-external-territories>, viewed 11 August 2015.

Island for the purposes of economic development after passing a vetting for probity.⁷⁹

4.92 Councillor Thomson agreed on the need to have ordinance. He observed:

The Commonwealth's Crown land management plans and the [Shire of Christmas Island's] Town Planning Scheme No. 2 are integrated plans. They cannot be fully implemented without the mechanism for exploitation of land that a Crown land disposal ordinance should provide.⁸⁰

4.93 According to Mr Calmy, an IOT Crown land disposal ordinance should include the following sections:

- CI Crown land;
- CKI Crown land;
- CKI trust land; and
- Unsolicited proposals.⁸¹

4.94 Mr Lacy called for Crown land disposal ordinance to have provisions for due diligence to effectively regulate responsible and sustainable development. He also called for ordinance to provide a mechanism to facilitate unsolicited proposals for development.⁸²

4.95 Councillor Thomson emphasised that the ordinance needs to be drafted by qualified legal and economic experts, in consultation with stakeholders, including DIRD, the Shire, Phosphate Resources Limited, heads of local organisations and industry.⁸³

4.96 Councillor Thomson and Phosphate Resources Limited said that Crown land ordinances need to be integrated with the existing Crown land management plans and town planning schemes. Phosphate Resources Limited stated:

We would anticipate that if an ordinance was prepared to enable land release it would operate subject to approvals by both the local government, under the Town Planning Scheme, and the Administrator on behalf of the Commonwealth.⁸⁴

79 Mr Chris Su, *Submission 43*, p. 3.

80 Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Canberra, 20 August 2015, pp. 1-2.

81 Calmy Planning and Design, *Submission 20.1*, p. 6.

82 Mr Brian Lacy, *Submission 39*, p. 17.

83 Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Canberra, 20 August 2015, p. 1.

84 Phosphate Resources Limited, *Submission 1*, p. 3; Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Canberra, 20 August 2015, p. 2.

4.97 DIRD said the Department's focus was on updating the CLMP first and then to 'identify whether an ordinance is required.' Ms Fleming, Executive Director, DIRD stated:

What we do not want to do is add another layer of complexity to what is already a complex process.⁸⁵

4.98 Mr Calmy responded to DIRD's statement:

I would finally assert that an ordinance would clarify and simplify land proceedings rather than create a 'new layer of complexity'. Policies are subject to change and interpretation. Investments are rarely based on policies, they require legal certainty.⁸⁶

Committee comment

4.99 It is evident that there is a perception that Australian Government lacks a strategic vision for land management and development in the IOT. The uncertainty over the vision for the development of Crown land, and the absence of a clear process for applying to lease or buy land may well have discouraged potential investors.

4.100 The Committee is pleased to note that DIRD has committed to developing an updated land management framework, comprising the updated CLMP and the Commonwealth Assets Management Plan to articulate a future vision for land release and development. The Committee wants to see the land management framework progressed as a priority in 2016 so that the IOT shires, community and investors can have some certainty.

4.101 Once finalised, the land management framework, should be widely promoted and a package of information for potential investors made available on the Department's website. The land management framework should make clear the principles governing the release of Crown land, and the process that developers need to follow to lease or purchase available Crown land.

85 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 10 September 2015, p. 10.

86 Calmy Planning and Design, *Submission 20.1*, p. 6.

Recommendation 8

The Committee recommends that the Department of Infrastructure and Regional Development, as a priority, develop a Crown land management framework for the Indian Ocean Territories.

The Crown land management framework, including the updated Crown Land Management Plan and the Commonwealth Assets Management Plan, should be published on the Department's website, and a package of information made available to potential investors. The Crown land management framework should make clear the principles governing the release of Crown land, and the process that developers need to follow to lease and purchase available Crown land.

- 4.102 While the Committee accepts that it may be necessary to update the Crown land management framework before assessing whether it requires complementary Crown land disposal ordinance, it is not sufficient to dismiss the idea by saying that 'it adds another level of complexity.'
- 4.103 Whether Crown land disposal ordinances are needed to enhance investor confidence, the Committee cannot say, on the basis of the limited evidence provided on this matter. However, if investor confidence is lacking, an updated Crown land management framework without ordinances risks not delivering demonstrably different land development outcomes. If ordinances are created they must be integrated with the broader IOT land planning framework, including Crown land management plans and town planning schemes.

Recommendation 9

The Committee recommends that the Department of Infrastructure and Regional Development investigate whether Crown land disposal ordinances are warranted to facilitate the lease and sale of Crown land in the Indian Ocean Territories.

If Crown land ordinances are warranted, they should be established without delay.

Transferring Commonwealth property to shires for reuse

4.104 Witnesses suggested that land owned by DIRD on the Cocos (Keeling) Islands, specifically West Island, could be better used to achieve economic benefit for the community. The CEO of the Shire of Cocos (Keeling) Islands claimed that DIRD is underutilising a number of sites on West Island:

...we need [DIRD] to come up with a plan of what they are going to do with the centrally owned land, like the Light Industrial Area, the commercial blocks, and the vacant residential blocks, instead of just sitting on their hands and waiting another ten years.⁸⁷

4.105 Mr Calmy agreed with this assessment, and noted that outline development plans for the Quarantine Station (2010) and the West Island Urban Expansion (2011) have not progressed:

These plans have the demonstrated potential to set [the Cocos (Keeling) Islands] in a sustainable economic trajectory and provide for the immediate needs of the elderly as well as the young local couples wanting to stay and work on [Christmas Island].

Given that DIRD has not given any indication that it will take the necessary measures to initiate the implementation of the [outline development] plans one can only agree with the [Chief Executive Officer of the Shire of Cocos (Keeling) Islands] that these Crown land assets are currently fundamentally 'underutilised'.⁸⁸

4.106 Councillor Clunies-Ross suggested that DIRD lacks the expertise to manage land effectively and therefore should not retain responsibility for its release in support of economic development:

DIRD and its precursors have little (no) experience in land release or management. I would not believe that they are not the body to be in charge of the process.⁸⁹

4.107 He argued that the Shire of Cocos (Keeling) Islands should take responsibility for land currently managed by DIRD:

Any Commonwealth land, especially unused land or unallocated land should be transferred to the Shire... This will provide an asset base and stable income for the [Shire] decreasing its reliance on the vagaries of a Commonwealth grants system each year. It would

87 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Canberra, 20 August 2015, p. 6.

88 Calmy Planning and Design, *Submission 20.1*, p. 4.

89 Councillor John Clunies-Ross, *Submission 6.2*, p. 3.

release DIRD from non-core business on island. It would bring the tools for social change into the authority of the local community.⁹⁰

- 4.108 The Shire of Cocos (Keeling) Islands specifically requested transfer of responsibility from DIRD to the Shire for a number of West Island sites either as freehold or on a 99 year lease, including:
- four commercially zoned parcels on Emden Walk;
 - the Light Industrial Area bounded by the Sydney Highway, Fremantle Road and Alexander Street; and
 - land suitable for retail at lot 193 William Keeling Crescent.⁹¹
- 4.109 The Shire of Cocos (Keeling) Islands outlined proposed uses for each of the sites to support economic development:
- making the commercial land on Emden Walk available to investors for development;
 - improving the Light Industrial Area and addressing issues of building non-compliance and safety; and
 - further developing the retail site on William Keeling Crescent, opening up opportunities for new businesses.
- 4.110 The Shire of Cocos (Keeling) Islands submitted:
- ...give the Shire the green light on the... projects and with minimal to even no federal funding we can and will kick start economic development.⁹²

Committee comment

- 4.111 The relative scarcity of developable land on the Cocos (Keeling) Islands makes it even more critical that assets are used effectively to support economic development, irrespective of which entity has administrative responsibility.
- 4.112 The Committee is disappointed to hear that scarce developable Crown land on West Island is being underutilised. It is clear that the Shire is willing to accept responsibility for developing these sites and believes it has the capacity to manage the land more effectively.
- 4.113 The CEO of the Shire of Cocos (Keeling) Islands has indicated that the Shire is willing to put in its own resources - time and money - to develop the sites for the benefit of the community. In view of this, the Committee

90 Councillor John Clunies-Ross, *Submission 6.2*, p. 4.

91 Shire of Cocos (Keeling) Islands, *Submission 46*, pp. 1-2.

92 Shire of Cocos (Keeling) Islands, *Submission 46*, p. 1.

can see no reason why these sites should not be transferred to the Shire of Cocos (Keeling) Islands for local management on a long-term lease basis.

Recommendation 10

The Committee recommends that the Department of Infrastructure and Regional Development transfer, on a long-term lease basis, the following Crown land assets on West Island to the Shire of Cocos (Keeling) Islands for development:

- **the four commercially zoned parcels on Emden Walk;**
- **the Light Industrial Area bounded by the Sydney Highway, Fremantle Road and Alexander Street; and**
- **the land suitable for retail at lot 193 William Keeling Crescent.**

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.

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.¹
- 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.²
- 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.³

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.⁴

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.⁵

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.⁶

- 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.⁷
- 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.⁸

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!⁹

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 transportation¹⁰ 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.¹¹

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].¹²

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.¹³

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...¹⁴

- 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.¹⁵ 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 2002.¹⁶

- 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.¹⁷

- 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.¹⁸

6.19 Mr Stanhope claimed:

...the majority of my letters and representations on behalf of residents were ignored.¹⁹

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.²⁰

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.²¹

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.²² 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.²³

- 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.²⁴

- 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.²⁵ 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.²⁶

- 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.²⁷

- 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.²⁸

- 6.27 The DIRD website contains no information on the current Administrator either.²⁹

- 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.³⁰

- 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.³¹

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.³²

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.³³
- 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.³⁴

- 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.³⁵

- 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.³⁶

- 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.³⁷

- 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.³⁸

- 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.³⁹

- 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.⁴⁰

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.⁴¹

- 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.⁴²

- 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.⁴³

- 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.⁴⁴

- 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.⁴⁵ 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.⁴⁶

- 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]?⁴⁷

- 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.⁴⁸

- 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...⁴⁹

- 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.⁵⁰

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.

Governance reform

Overview

- 7.1 While not a specific term of reference for the Committee's inquiry, governance reform is key to achieving significant change:

These territories are neither fish nor fowl and the majority of problems are caused because of that condition. There is total confusion as to the appropriateness of laws.¹

Little has changed in the last decade...all the evidence that [the Joint Standing Committee on the National Capital and External Territories] has been hearing over time virtually amounts to the same story. What we really need is a process that creates action... There is a need for change and the change has to be significant and has to come from the very foundations.²

- 7.2 The Committee's interim report and first three chapters of this report indicate that there are prospects for economic development in the Indian Ocean Territories (IOT) within the current governance system, especially if land management reform takes place. However, there may be better prospects for economic development if governance and administrative arrangements are normalised and brought in line with those on mainland Australia. Maintaining the status quo in the IOT is not likely to fundamentally improve its prospects for a sustainable future.
- 7.3 Since the IOT have been under Australian jurisdiction, successive Australian Governments have endeavoured to provide service delivery

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

2 Mr Barry Haase, private capacity, *Committee Hansard*, Canberra, 3 December 2015, p. 8.

comparable to other remote parts of Australia. However, ad-hoc reforms seeking to improve governance and administrative arrangements have only resulted in a system that is unwieldy and unlike any other in Australia.

Chapter outline

- 7.4 This chapter outlines the strategic importance of the IOT to Australia's national interest.
- 7.5 The key features of the governance and administrative arrangements in the IOT are set out before recapping the various criticisms of the governance system that have been mentioned in the preceding chapters of this report. Two significant issues have been the cost and efficiency of the Service Delivery Arrangements and concerns about the adequacy of consultation and community input. This chapter picks up from Chapters Five and Six and considers the costs of governance as a whole, and whether there is a fundamental 'democracy-deficit' in the IOT.
- 7.6 The chapter then examines different improvements and alternatives to the current system. These include:
- better channels of communication between all levels of government;
 - assessing the role of local government; and
 - incorporating the IOT into an existing Australian state or territory.
- 7.7 Each of the above will be considered in turn. The main focus will be on the proposal to incorporate the IOT into Western Australia (WA) - a suggestion raised in previous committee inquiries and reports - or, as an alternative, the Northern Territory (NT). This would introduce the missing second tier of government and in the case of the latter, realign federal and state/territory representation given the IOT's federal representation is in the NT.

Strategic importance of the Indian Ocean Territories

- 7.8 Christmas Island and the Cocos (Keeling) Islands are considered strategically important to Australia.

- 7.9 Former public servant, Mr Julian Yates noted their significance during World Wars One and Two, when their proximity to South-East Asia enabled better defence of Australia's northern approaches.³ In the 1950s Christmas Island was an important source of phosphate for fertiliser and Australia was keen to ensure supply security for the agricultural industry.⁴
- 7.10 Mr Yates emphasised that the strategic interests of the IOT endure, for diverse reasons, including its geographical position in the region, and access to Asian markets. He elaborated:
- Major sea lanes of communications and air routes pass in relatively close proximity, including those that connect Australia to its major trading partners, and... connect China to its market and energy supplies;
- Many nations bordering the Indian Ocean, notably India, Malaysia, and Indonesia have growing economies, increasing levels of wealth and education and more capable militaries; and
- Unresolved border disputes exist throughout the region to the north and west of Australia... the South China Sea dispute between China and most of the region is the most prominent, but there are numerous other points of contention between most nations of the region.⁵
- 7.11 The Cocos (Keeling) Islands are still sometimes used as a refuelling point and phosphate mining remains an important industry on Christmas Island.
- 7.12 Mr Herve Calmy, Calmy Planning and Design also referred to diverse and ongoing interests that Australia has had in the territories. He cited two other examples: the proposal to establish a space centre project to launch rockets from Christmas Island; and more recently, construction of the Christmas Island immigration detention centre.⁶
- 7.13 Mr Calmy observed that sovereignty of the territories involves commensurate responsibilities and costs:

3 Mr Julian Yates, *Submission 4*, p. 2.

4 Mr Julian Yates, *Submission 4*, p. 2.

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

6 Mr Herve Calmy, Calmy Planning and Design, *Committee Hansard*, Canberra, 10 September 2015, p. 1.

Sovereignty is never free. What makes sovereignty real is the price any government is prepared to pay to establish it and then is prepared to maintain it...

...in other words, actions of strategic significance to improve governance and economic development in the IOT, if they are to be effective, will need to be resourced in the context of national interest, and thus with a budget separate than the one currently used by the Department from year to year to run the show.⁷

Committee comment

- 7.14 The Committee recognises the ongoing significance of keeping the IOT in the Australian jurisdiction, and that maintaining a presence in the region is important.
- 7.15 More will be said below on the costs to the Commonwealth of maintaining the IOT, including the budget and adequacy of resources available to the Department of Infrastructure and Regional Development (DIRD) to manage them.
- 7.16 Beyond responsibilities associated with service delivery to IOT residents, the Australian Government has a responsibility to IOT residents and Australian taxpayers alike to ensure that the territories have some strategic direction.

Current governance arrangements

- 7.17 As external territories, Christmas Island and the Cocos (Keeling) Islands are administered by the Commonwealth through the DIRD with the Minister responsible for the territories bearing overall responsibility. An Administrator appointed by the Governor-General represents the Minister in the region. IOT residents are represented at the federal level by the Member for Lingiari and the two NT Senators.
- 7.18 In the absence of a state government, DIRD manages the provision of state-type services in the IOT through:
- Service Delivery Arrangements (SDA) or an exchange of letters with Western Australian (WA) Government agencies;

7 Mr Herve Calmy, Calmy Planning and Design, *Committee Hansard*, Canberra, 10 September 2015, p. 1.

- contracts with private entities; and
 - directly, where services cannot be provided via an SDA or privately.
- 7.19 More information on state-type service arrangements supported by DIRD can be found at Appendix C.
- 7.20 At local level two shires, the Shire of Christmas Island and the Shire of Cocos (Keeling) Islands, provide local government representation and are responsible for supporting a range of municipal services in the IOT.

Summary of criticisms of governance arrangements

- 7.21 A multitude of criticisms has been levelled against the current governance and administrative system in the IOT. The main ones, already referred to in the preceding chapters of this report, include:
- that the territories unique governance arrangements are a barrier to developing tourism, because of exclusion from mainland structures like state and regional tourism bodies (Chapter Two);
 - that the IOT Regional Development Organisation is not a fully resourced or functional regional development organisation (Chapter Three);
 - that there is a lack of strategic vision and commitment on the part of the Australian Government for land management and development in the IOT (Chapter Four);
 - that the community is not adequately consulted as part of the SDA process; SDA do not address IOT residents' needs; they are not transparent and accountable; and they do not necessarily represent good value for money (Chapter Five); and
 - that the delegations of the Administrator are not clear (Chapter Six).
- 7.22 Two additional criticisms identified below are considered next in more detail:
- the overall cost of public administration in the territories is high yet residents' satisfaction levels are low. At the same time, DIRD is under-resourced and strained by trying to do too much; and
 - there is a 'democracy deficit' because IOT residents do not have state-level representation in WA Parliament although WA laws are

applicable. There is a further disconnect because the IOT federal representatives are located not in WA, but the NT.

Costs of public administration

7.23 The 2014-2015 total budget allocation for the IOT was nearly \$149.5 million. This comprised an operational component of \$126.2 million and capital works of \$23.3 million. See Table 7.1 below for a breakdown.⁸

Table 7.1 IOT Budget Summary at 31 May 2015 (Inclusive of Approved Additional Estimates, Movements of Funds, Revenue Adjustments and Parameter Adjustments)

2014-15 Operational Budget		2014-15 Capital Budget	
WA Service Delivery Arrangements (includes 2013-14 offset funding)	\$32,120,922	Administered Capital Budget	\$12,297,084
Other Service Delivery Arrangements and Expenses	\$1,947,230		
Private Sector Contracts	\$30,343,958		
Australian Government Managed Services		Major Capital Projects	
Policing	\$4,345,000	Fuel Consolidation Storage	\$3,000,000
Health Services	\$16,004,000	Flying Fish Cove Jetty Extension	\$8,000,000
Power Authority	\$18,765,354		
Support to the Community	\$3,520,200		
Support to Local Government	\$7,234,970		
Administration, Operations and Corporate Services	\$11,902,366		
Total Operational Budget	\$126,184,000	Total Capital Budget	\$23,297,084
2014-15 Total IOT Budget		\$149,481,084	

Source Department of Infrastructure and Regional Development, *Indian Ocean Territories, 2015-16 Budget Overview and 2014-15 Budget Outcomes*, p. 3.

7.24 Table 7.1 shows that the vast majority of the budget is allocated towards services.

7.25 Chapter Five catalogued various concerns witnesses had about the high cost of the Service Delivery Arrangements (SDA), perceived wastage, and outcomes which are unsatisfactory and do not represent value for money.

8 Department of Infrastructure and Regional Development, *Indian Ocean Territories, 2015-2016 Budget Overview and 2014-2015 Budget Outcomes*, p. 3.

7.26 Dr Martin Drum, an academic with an interest in politics and international relations, appearing in a private capacity noted that the current IOT governance model is costly per capita:

...Christmas Island, with a similar population to Norfolk, receives almost 2.5 times the amount of Commonwealth funding. The discrepancy for the Cocos (Keeling) Islands is even greater when it is considered that its population is about one third of Norfolk yet it receives more funding. When the funding is broken down to key services, the costs of education, health and water and sewerage in the IOT are much higher...⁹

7.27 Dr Drum elaborated on the high costs of administering the IOT, owing to their remoteness from Canberra where DIRD, which is responsible for managing the territories is located; the fact that the WA Government is the 'middle man' providing the services out of Perth; and that WA has the monopoly on service provision:

...Given the obvious similarities in remoteness between Norfolk and the IOT, the [data] demonstrate that centralisation of decision-making in Canberra, comes at a considerable cost to the Commonwealth.¹⁰

...it is very 'top down'; very little Commonwealth funding is delivered in accordance with the wishes of locals. Most of the funding is tied and much of it is double-handled in that is handed to the state of [WA], who then deliver the service.¹¹

...There are no alternative providers considered, which disadvantages the Commonwealth during negotiations.¹²

Resources of the Department of Infrastructure and Regional Development

7.28 Advice from DIRD at 8 February 2016 indicates that it has 124 staff in its IOT division. This comprises 17 staff in Canberra working on executive, policy, capital and major projects, 11 staff working in Perth on SDA, contracts and travel schemes for students and pensioners, 100 staff on

9 Dr Martin Drum, *Submission 22*, p. 5.

10 Dr Martin Drum, *Submission 22*, p. 7.

11 Dr Martin Drum, *Submission 22*, p. 7.

12 Dr Martin Drum, *Submission 22*, p. 3.

Christmas Island and 13 on the Cocos (Keeling) Islands working to deliver services.¹³

- 7.29 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, DIRD outlined the wide range of topics her team of approximately 30 officers in Canberra and Perth were expected to be across, ranging from policy to contract and asset management through to human resources, finance and auditing:

...I have a policy team...which includes some legal policy officers, but we draw on the Department's broader legal advice around legislation... We have a contract management, asset management, framework team, which has done all of the construction of the major initiatives that we have been taking forward, and manages contract renegotiations including the big contracts that have to be renegotiated like the fuel supplies, the airports, the air services, the ports. We then have a team in Perth, which manages our contracts that are managed out of Perth commercially, like Patricks [Ports] as well as the mine, as well as our Service Delivery Arrangements with the [WA] state. Then we also engage with our human resources team to manage our enterprise agreements, and then my finance unit works with the on-island team to do all the fiscal reporting and responding to various audits that we have over years around revenue collection. It is a large body of work.¹⁴

- 7.30 A former public servant with extensive experience in the territories, Mr Stephen Clay expressed his view that Departmental resources were stretched, resulting from a steady decline in staff numbers:

In my experience [DIRD] suffers, like many other areas of Government, from a lack of adequate resources to cover the complexities of the IOT. In my 12 years in Territories this situation has gradually worsened, with reductions in staff numbers. This is exacerbated by a lack of government 'vision' for the IOT. Without adequate resourcing and coordination across Government, the IOT will continue to suffer from short-term decision making.¹⁵

- 7.31 Mr Yates observed that, during his tenure in the Department, there was more local staff working on island:

13 Department of Infrastructure and Regional Development, *Submission 36.6*, p. 1.

14 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 10.

15 Mr Stephen Clay, *Submission 41*, p. 1.

...with the specific intent of getting more people out there to do things.¹⁶

- 7.32 Mr Gordon Thomson, General Secretary of the Union of Christmas Island Workers commented that, at the same time as cuts had been made to the public service, demands on public servants increased. He emphasised that public servants have the additional burden of working in a system that is separate to, and different to the regular public service.¹⁷ He added that:

The problem is not the individuals who work within the system; it is that the system of governance is deeply flawed...¹⁸

Committee comment

- 7.33 In Chapter Five the Committee recommended that the Australian National Audit Office (ANAO) undertake an audit of the SDA given the level of dissatisfaction that residents had with them.
- 7.34 While the Committee recognises the IOT is remote and service delivery will always incur a premium, there are only about 2,000 people in total who live in the Indian Ocean Territories. The per capita cost of delivering services appears high. It is hard to know whether they demonstrate value for money in the absence of a comprehensive audit, and given that the arrangements are unique and cannot be compared to any other part of Australia.
- 7.35 In its interim report, the Committee was critical that information provided by DIRD was not always comprehensive and responses to questions that were less than direct. That may be partially attributable to the issue of resource availability.
- 7.36 The Committee appreciates that DIRD is trying to do something that is not usually expected of Commonwealth government departments, namely administer islands and take on a role usually supported by state government and state government agencies, including managing everything from its strategic and policy direction through to the running of schools, hospital and utilities. It is challenging to do this with a relatively small number of staff, spread across four locations and time zones.

16 Mr Julian Yates, private capacity, *Committee Hansard*, Canberra, 3 December 2015, p. 4.

17 Mr Gordon Thomson, General Secretary, Union of Christmas Island Workers, *Committee Hansard*, 9 April 2015, p. 11.

18 Mr Gordon Thomson, General Secretary, Union of Christmas Island Workers, *Committee Hansard*, Christmas Island, 9 April 2015, p. 11.

- 7.37 The next section looks at the second major criticism of the current governance arrangements: that the IOT has no state level representation and this equates to a democracy deficit.

A 'democracy deficit'?

- 7.38 The IOT effectively has no state level representation. The IOT federal member and senators are located in the NT but the territories do not have an NT Legislative Assembly representative. IOT residents are subject to applied legislation from WA, yet they have no representative in the WA Parliament either.

- 7.39 Mr Peter Griggs, a long-time resident of Christmas Island voiced his frustration:

As you know, the IOT is missing the tier of government that state governments provide to communities. The SDA arrangements currently in place with [WA] are the support mechanism to provide state-type services to the IOT...

The difficulty that most residents are unable to reconcile is that, decisions are made in Canberra/WA regarding which services/projects are to be implemented in the IOT with very little input requested from the local communities. The problem is further exacerbated in the fact we are unable to voice our frustration through the ballot box, as there is no state type election for the residents.¹⁹

- 7.40 Another Christmas Island resident, Ms Lisa Preston said something similar:

With no state representation, but with our Service Delivery Arrangements arranged with state departments the islands are caught in a conundrum. The state delivering our services is not one that we can vote for our representatives in.²⁰

- 7.41 Christmas Island resident Mr Kelvin Matthews summarised:

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

20 Ms Lisa Preston, *Submission 28*, p. 2.

We believe this fails the basic test of representative democracy in that Christmas Islanders are not giving their consent to laws which bind them.²¹

7.42 Dr Drum expanded on the perceived lack of representation at state level:

The right to directly elect representatives who make laws which apply to you is one of the few rights which are explicit in the Australian Constitution, the right to vote (sections 7 and 24)... Whilst there is some representation available to islanders in the Commonwealth Parliament through the federal electorate of Lingiari in the Northern Territory, this does not resolve the issue of the lack of representation at state level, where most legislation applies.²²

7.43 Dr Drum emphasised the important principle of being able to vote for an elected representative at all levels of government:

When I teach Australian politics that is one of the first things I talk about – that is, we have a right to say yes or no to the things that govern us through our elected representatives. This is not just an abstract point, because it actually flows through to things like accountability and the responsiveness of governments. A lot of responsiveness of government is undertaken in parliamentary estimates and through committees like this, where officials have to account for the spending, the management and the administration of public funds.²³

7.44 While acknowledging there is representation through the electorate of Lingiari in the NT, Mr Matthews questioned the extent to which ‘community interest’ could be represented through this means, noting:

Christmas Island has its own unique history and a collective majority of non-English speaking communities from South-East Asia who retain their own sense of cultural identity.²⁴

7.45 Mr Yates expressed doubt whether there is in fact a democracy deficit in the IOT. He maintained that the IOT has universal adult suffrage for local and federal elections and that the current arrangements means IOT residents are:

21 Mr Kelvin Matthews, private capacity, *Committee Hansard*, Christmas Island, 9 April 2015, p. 39.

22 Dr Martin Drum, *Submission 22*, p. 2.

23 Dr Martin Drum, *Committee Hansard*, Perth, 8 May 2015, p. 6.

24 Mr Kelvin Matthews, private capacity, *Committee Hansard*, Christmas Island, 9 April 2015, p. 39.

...placed much closer to the seat of Commonwealth power than any comparable mainland community:

- the islands have local government that operates under the same model that applies in [WA]...;
- the islands are part of the federal state of Lingiari and represented in the Senate and House of Representatives...; [and]
- the islands have their own Joint Standing Committee of the Federal Parliament, and receive substantially more attention by this committee than any other comparable mainland community...²⁵

7.46 Mr Yates elaborated noting that the applied law regime that operates in the IOT is not well understood. He explained that it is not WA law applying directly to the IOT but in fact Commonwealth law which draws on WA state legislation to provide a governance framework:

...it is not Western Australian state law that is being imposed: it is Commonwealth law that uses their state law as the basis. The rationale for that is... the Commonwealth does not have a body of state law, so it needs to, when it is running territories, where it provides the state equivalent services have a body of law from somewhere. The choice was made, Western Australia-reason: because Western Australian state agencies are contracted to deliver the services, they are best placed to deliver them under the applied WA law regime.

It is the Commonwealth Parliament that makes applied law work and the Commonwealth Parliament that removes it... It is not actually the Western Australian Parliament that makes the applied law; it is the Commonwealth law.²⁶

7.47 Ms Fleming of DIRD confirmed that it is the Commonwealth's role, through the Commonwealth Minister responsible for the territories, to determine whether an applied law needs to be modified or adapted for IOT residents. She alluded to the resource implications involved in changing applied laws:

There is just an enormous body of state law, some of which is applicable to the territories in full, some of which is applicable in part, and some of which is probably not applicable but you do not know. It might not be applicable so you apply it anyway. Can you modify, through ordinance, each and every one of those pieces of

25 Mr Julian Yates, *Submission 4*, p. 4.

26 Mr Julian Yates, *Committee Hansard*, Canberra, 3 December 2015, p. 2.

legislation to adapt to a territory? You probably could but would you want to? What would be the resourcing that is required to write an ordinance which has to go through Office of Parliamentary Counsel and then has to be assessed with every other piece of Commonwealth and state legislation...

...We will [provide that resourcing] where it is absolutely necessary- the examples is the fire regs in Jervis Bay- but we do not do that where it is not necessary. ...the subsequent question is: what resourcing is needed and what resourcing is appropriate for 2,000 people as well that live in two different communities. There is a balancing.²⁷

- 7.48 Mr Yates said that during his time with DIRD approaches were made to the Minister 'reasonably regularly' that a particular WA law not apply or be modified to suit the needs of the IOT community.²⁸
- 7.49 According to Mr Clay, the Christmas Island Community Consultative Committee (CCC) run by the Shire of Christmas Island was originally established in 1992 to be informed by DIRD and then inform the community of new laws being enacted in the territory.²⁹ However, as outlined in Chapter Five, the defunding by DIRD would appear to indicate the CCC's role has diminished.
- 7.50 Former IOT Administrator, Mr Jon Stanhope said there is a 'massive void in relation to consultation or advice on state-type matters.'
- 7.51 Mr Thomson said he wants to see a mechanism established for the Shire to review all applied laws and to advise the Minister or Commonwealth Government on their views.³⁰

Committee comment

- 7.52 The fact that there is no state representation lead some witnesses to the question: what are the implications and how effectively do the current arrangements address this void?

27 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 14 May 2015, p. 9.

28 Mr Julian Yates, private capacity, *Committee Hansard*, Canberra, 3 December 2015, p. 2.

29 Mr Stephen Clay, *Submission 41*, p. 3.

30 Mr Gordon Thomson, General Secretary, Union of Christmas Island Workers, *Committee Hansard*, Christmas Island, 9 April 2015, p. 11.

- 7.53 Since 1992 the use of WA applied law has provided a framework. This makes the Commonwealth Minister for the territories responsible for the application of Commonwealth and WA laws.
- 7.54 The Committee notes that applied law is not unique to the IOT. It exists elsewhere in Australia, namely in the Jervis Bay Territory (ACT law applies)³¹ and on Lord Howe Island (NSW law applies). Jervis Bay residents have neither local nor state level representation, but, according to DIRD, 'access the decision-making process through community organisations.'³² Lord Howe Island residents have local representation through the Lord Howe Island Board and a state representative in the NSW Parliament via the Member for Port Macquarie.³³
- 7.55 The Committee acknowledges that changing WA applied law to suit IOT conditions is possible, albeit a somewhat cumbersome process, involving the Commonwealth Minister responsible for the territories.
- 7.56 In Chapter Five, the Committee noted that DIRD has sought to reengage with the CCC in recent times. However, the Committee is not confident that the CCC functions as a sufficient avenue anymore for residents to raise concerns about WA applied law, let alone access the decision making process. And, as previously mentioned, the CCC does not appear to have an equivalent on the Cocos (Keeling) Islands.
- 7.57 The Committee acknowledges how frustrating it is for those in positions of public office, let alone residents, to try and get definitive answers to questions on the applicability of state laws and regulations in the IOT.
- 7.58 The next section looks at alternatives to the current governance arrangements.

31 See DIRD website for details of governance arrangements, http://regional.gov.au/territories/jervis_bay/governanceadministration.aspx

32 See Department of Infrastructure and Regional Development website, http://regional.gov.au/territories/jervis_bay/governanceadministration.aspx

33 Parliament of NSW, NSW Members https://www.parliament.nsw.gov.au/prod/parlment/members.nsf/0/47961F2852CB6983CA2578690019182C?Open&refnavid=ME4_1

Improvements and alternatives to the governance model

Communication channels

7.59 Mr Clay proposed various changes to the current governance model. He suggested that 'at the very least there should be a genuine attempt to improve communication at all levels between the Administrator, DIRD, local government and the IOT Administration. On the CCC specifically he said:

It is perhaps time for the CCC to be reconstituted across the IOT to provide for better two-way communication.³⁴

7.60 Mr Clay endorsed utilising various other forms of communication too, such as the Administrator's conversations and the Interdepartmental Consultative Committee.³⁵

7.61 Dr Drum agreed on the need to improve communication and argued that deficits in representation can be redressed through extensive consultation:

That would be some kind of remedy. In other words, if you go out frequently to those areas that are not represented in ways that we take for granted and you consistently and frequently ask their opinions on their issues and the policies and the services that are being delivered to them, that is some remedy for that lack of representation.³⁶

7.62 Mr Thomson expressed his view that 'consultation is used by the Department as a substitute for democracy and ineffective,' noting:

...consultation...is not determinative of government action: community views can be ignored or dismissed.³⁷

7.63 Mr Clay and Mr Haase emphasised that true consultation goes beyond information sharing.³⁸ Mr Haase said:

There is so much talk locally and between here and Canberra about effective consultation. Consultation rarely takes place.

34 Mr Stephen Clay, *Submission 41*, p. 3-4.

35 Mr Stephen Clay, *Submission 41*, p. 4.

36 Dr Martin Drum, private capacity, *Committee Hansard*, Perth, 8 May 2015, p. 6.

37 Mr Gordon Thomson, General Secretary, Union of Christmas Island Workers, *Committee Hansard*, Christmas Island, 9 April 2015, p. 11.

38 Mr Stephen Clay and Mr Barry Haase, private capacity, *Committee Hansard*, Canberra, 3 December 2015, p. 5 and 9.

There is a lot of information collected and a lot of information delivered, but I do not see a clear process of consultation.³⁹

- 7.64 Mr Clay and Mr Bowman added how important it is to make available translation and interpretation services, to encourage community participation by the Chinese, Malay and Cocos-Malay communities.⁴⁰

Committee comment

- 7.65 In Chapter Five the Committee recommended that a formal consultation protocol be developed to improve communication best practice in the IOT.
- 7.66 The Committee agrees that genuine community consultation is very important in all governance matters including the SDA and adding, amending or removing applied WA law.
- 7.67 However, even with the best communication protocol, processes associated with SDA and applied law are always going to be challenging in the IOT because such governance arrangements stand outside the norm.
- 7.68 It would be less confusing and more straightforward if WA law applied directly (i.e. not in an applied manner) and IOT residents had a representative in the WA Parliament with whom they could raise their concerns with directly. Or, alternatively, NT law applied directly with a NT Parliament representative. This could be achieved with incorporation of the IOT into WA or the NT (see later in this chapter). Similarly, it would be less confusing and more straightforward if WA or NT agencies provided state/territory services directly rather than through SDA.

Role of local government

- 7.69 The Shire of Christmas Island has an overall revenue budget of \$12 million, with 650 ratepayers (resident and commercial) generating approximately \$1.1 million of that total. The Commonwealth provides the majority of funds.⁴¹
- 7.70 The Shire of Cocos (Keeling) Islands' operating revenue in 2014/15 was nearly \$4 million, with 216 rateable properties (resident and commercial) generating about 10 per cent of the operating revenue. The

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

40 Mr Stephen Clay, *Committee Hansard*, Canberra, 3 December 2015, p. 6. and Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Committee Hansard*, Cocos (Keeling) Islands, 8 April 2015, p. 14.

41 Councillor Gordon Thomson, President, Shire of Christmas Island, *Committee Hansard*, Christmas Island, 9 April 2015, p. 7.

Commonwealth funded \$2.6 million, with the remainder primarily made up of rental income.⁴²

- 7.71 Evidence to the inquiry indicated that local government is a key component of governance in the IOT.⁴³ Former Administrator Mr Brian Lacy said:

The local governments play an important role in the governance of the IOT and in the representation of their constituents. As such the IOT local governments are an important and tangible symbol of the democratic process for the people of the IOT.⁴⁴

- 7.72 Submissions from the Chinese Literary Association and Malay Association on Christmas Island (MACI) endorsed the local government on Christmas Island.⁴⁵ MACI said:

[We] are very supportive of local government and see it as the sole democratic body available to residents on Christmas and Cocos Islands to put forward a community position on issues to the Commonwealth.⁴⁶

- 7.73 The Australian Centre of Excellence for Local Government and Mr Matthews both noted that the importance of local government is heightened amongst small communities which are located away from main centres of government. Mr Matthews said:

...primarily because of their community of interest and because they have their own local sense of character or identity.⁴⁷

- 7.74 He added:

Local government is constantly underestimated, we believe, by many of the state and federal government bodies.⁴⁸

42 Mr Aaron Bowman, Chief Executive Officer, Shire of Cocos (Keeling) Islands, *Submission 46.1*, p. 1.

43 Chinese Literary Association, *Submission 3*, p. 3, Mr Stephen Clay, *Committee Hansard*, Canberra, 3 December 2015, p. 6 and Mr Kelvin Matthews, private capacity, *Committee Hansard*, Christmas Island, 9 April 2015, p. 40, Mr Brian Lacy, *Submission 39*, p. 15; Western Australian Local Government Association, *Submission 31*, p. 1.

44 Mr Brian Lacy, *Submission 39*, p. 15.

45 Chinese Literary Association, *Submission 3*, p. 3; Malay Association of Christmas Island, *Submission 24*, p. 2.

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

47 Mr Kelvin Matthews, private capacity, *Committee Hansard*, Christmas Island, 9 April 2015, p. 40; Australian Centre of Excellence for Local Government, *Submission 13*, p. 2.

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

- 7.75 In Chapter Five mention was made of the Shires on Christmas Island and Cocos (Keeling) Islands possibly taking on additional responsibilities, including having an advisory role in the development of the SDA and delivering some state-level services.
- 7.76 Mr Yates stated in his submission that both shires' 'task maturity had increased over time and that needs to be actively pursued and supported:'
- Over the years of my involvement the capacities of both local governments improved and we were able to fund them to do larger projects and more activities.⁴⁹
- 7.77 At a Canberra hearing he added:
- It may be appropriate to look at the greater roles that local governments play in other parts of Australia, and if necessary, change the applied WA Local Government Act to enable the shires to have more responsibilities.⁵⁰
- 7.78 Mr Clay agreed there is scope to redefine how local government should be structured and deliver services in the IOT. He said their functions could be enhanced, in a range of ways:
- ...through genuine capacity building, adequate funding with KPIs and mentoring by established local governments on the mainland.⁵¹
- 7.79 Mr Clay suggested additional services that might be transferred to local government, including, economic development, tourism, utilities management, emergency management and road responsibility.⁵²
- 7.80 Dr Drum said:
- Where you would give some extra powers to decision-making bodies and they would be carefully audited [by the Commonwealth].⁵³
- 7.81 Mr Clay noted that there is some duplication of services between the IOT Administration and the shires, including management of public spaces such as reserves or parks, and inferred these could be streamlined.⁵⁴

49 Mr Julian Yates, *Submission 4*, pp. 4-5.

50 Mr Julian Yates, *Committee Hansard*, Canberra, 3 December 2015, p. 3.

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

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

53 Dr Martin Drum, *Committee Hansard*, Perth, 8 May 2015, p. 8.

54 Mr Stephen Clay, *Submission 41.1*, p. 3.

- 7.82 Mr Yates said the notion of a regional council (where some functions are amalgamated) might be an idea worth investigating. However, he had reservations about having a single combined shire. He was concerned about dominance that Christmas Island might have:
- ...let's stick with the existing structure... but actively increase the capacity of both shires to do more by supporting them with funding, training and staffing, and giving them the authority to do things.⁵⁵
- 7.83 Mr Clay agreed, saying that the two territories are very different:
- ...having one local authority with say a branch office on Cocos will not work as they suffer from a lack of representation.⁵⁶
- 7.84 Dr Drum advocated expanded powers for local government, ranging from having direct oversight of the SDA process and giving local consent to new legislation applied from WA, through to establishing a self-governing legislative assembly similar to that which until recently existed on Norfolk Island.⁵⁷
- 7.85 Former Christmas Island resident, Mr Russell Payne also argued for a form of self-determination.⁵⁸
- 7.86 Dr Drum said he believes the way forward is a 'mixed-model' where extra powers are given to decision-making bodies on island which would be carefully audited.⁵⁹
- 7.87 Others were more cautious about giving the shires additional responsibilities. Some Christmas Island residents indicated that the Shire did not represent them, and a number expressed concerns, in particular, about the proper conduct of local Christmas Island Shire elections.⁶⁰
- 7.88 Mr Clay suggested that a thorough review of local government in the IOT was timely. He suggested that review be undertaken by the

55 Mr Julian Yates, *Committee Hansard*, Canberra, 3 December 2015, p. 3.

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

57 Dr Martin Drum, *Submission 22*, p. 11.

58 Mr Russell Payne, *Submission 17*, p.1.

59 Dr Martin Drum. *Committee Hansard*, Perth, 8 May 2015, p. 8.

60 Ms Bobbi Robertson, *Submission 27*, p. 2, Ms Lisa Preston, *Submission 28*, p. 3, Ms Trish O'Donnell, private capacity, *Committee Hansard*, Christmas Island, 9 April 2015, pp. 43-44, Mr Noel Thornton, private capacity, *Committee Hansard*, Christmas Island, 9 April 2015, p. 24, Mr Barry Haase, Administrator, *Committee Hansard*, Christmas Island, 9 April 2015, p. 29 and Mr Peter Griggs, *Submission 19*, p.1.

Commonwealth Grants Commission, 'to ensure services are commensurate with what is expected in such a remote part of Australia.'⁶¹

- 7.89 An alternative model of governance proposed for the IOT by Mr Clay was to establish an entity similar to the Lord Howe Island Board in NSW, or the Rottnest Island Authority in WA.⁶²
- 7.90 The Lord Howe Island Board is a statutory authority established under the provisions of the *Lord Howe Island Act 1953*. Responsible to the NSW Minister for the Environment, the Board comprises four Islanders elected by the community and three members appointed by the Minister. The Board is charged with the control and management of the Island and Islanders' welfare.⁶³
- 7.91 Similarly, the *Rottnest Island Authority Act 1987* gives that Authority the power to control and manage the island, reporting to the WA Minister for Tourism. The Board of the Rottnest Island Authority consists of a Chair, appointed by the Governor on the nomination of the Minister for Tourism, and five other appointed members.⁶⁴
- 7.92 Mr Clay's model along these lines for the IOT would constitute a formal IOT Administration with an elected advisory board, probably chaired by the Administrator.⁶⁵ It would require its own enabling legislation and be subject to the *Public Governance, Performance and Accountability Act 2013*.⁶⁶
- 7.93 Mr Clay was the only witness to propose the establishment of a statutory authority although, Mr Jon Stanhope, appearing in a private capacity, also advocated for an elected advisory body.⁶⁷
- 7.94 Mr Clay appeared to suggest that the statutory authority would see the SDA and shire functions come together and become part of one board or authority.⁶⁸
- 7.95 Mr Clay further suggested that the board could be supported by DIRD and assisted by Departmental advice, capacity building and government liaison support.⁶⁹

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

62 Mr Stephen Clay, *Submission 41*, pp. 2-3 and Mr Stephen Clay, *Committee Hansard*, Canberra, 3 December 2015, p. 6.

63 See Lord Howe Island Board website, <http://www.lhib.nsw.gov.au/>, viewed 9 February 2016.

64 See Rottnest Island Authority website, <http://ria.wa.gov.au/>, viewed 9 February 2016

65 Mr Stephen Clay, *Submission 41*, pp. 2-3.

66 Mr Stephen Clay, *Submission 41*, p. 3.

67 Mr Jon Stanhope, private capacity, *Committee Hansard*, Canberra, 12 November 2015, p. 2.

68 Mr Stephen Clay, *Committee Hansard*, Canberra, 3 December 2015, p. 6.

- 7.96 Mr Clay said that he did not underestimate the difficulty of establishing such an authority, and that it is 'less desirable than incorporation.'⁷⁰

Committee comment

- 7.97 The Committee recognises the vital functions that local government perform in small remote communities, providing municipal services and serving the communities in a range of ways.
- 7.98 In Chapter Four the Committee recommended that the Commonwealth transfer responsibility of certain Commonwealth assets on West Island to the Shire of Cocos (Keeling) Islands to enable it to develop these sites. The Committee believes the Shire of Cocos (Keeling) Islands has the capacity to manage the assets effectively.
- 7.99 However, in Chapter Five the Committee noted that certain responsibilities (namely, motor vehicle registration and the Recreation Centre) had been transferred to the Shire of Christmas Island and resumed by the Commonwealth because services had not been adequately supported.
- 7.100 The Committee agrees that there is sometimes scope for local governments to do more. Equally, sometimes local governments do not have the resources, capacity or expertise to be able to do the work. The Committee notes that the populations in the IOT are small and the shires have a low resource base via rates. They are reliant on the Commonwealth for most funding.
- 7.101 The Committee does not support a self-governance model operating in any external territory, including the IOT.
- 7.102 The statutory authority may be a proposal worth exploring further. However, the Committee cannot tell from the information provided to it whether the proposed model for the IOT along the lines of the Lord Howe Island Board and Rottneest Island Authority can be applied to the IOT. Establishing another expensive bespoke governance model will not redress the underlying problem: that there is no state level of government and representation.
- 7.103 The Committee agrees that a review of the functions of the local governments in the IOT is opportune. There may be scope to streamline and amalgamate some functions if that were to improve performance and

69 Mr Stephen Clay, *Submission 41*, p. 3.

70 Mr Stephen Clay, *Submission 41*, p.p. 2-3.

strengthen the system of local government. Any review should be done in consultation with the local shires. Consideration might also be given to the statutory authority model for the IOT as part of the review.

Recommendation 18

The Committee recommends that the Australian Government, in consultation with the shires, undertake a review of local government in the Indian Ocean Territories to determine if there is scope to streamline and amalgamate some functions.

7.104 In the Committee's view, the only option to fully address the issue of state representation is incorporation. This is examined in the next section.

Incorporation into a state (Western Australia) or territory (the Northern Territory)

7.105 Mr Haase pointed out why incorporation is the only solution:

Until such time as these territories are part of a state or territory, so that there is local involvement in state or territory-like government, as well as federal, then we are going to have anomalies that continue to create frustration, we are going to continue to put resources into papering over the cracks of administration and we are still not going to have a final solution that gives satisfaction to those responsible for funding the location and community that lives here.⁷¹

Not a new idea

7.106 Previous parliamentary committee reports have discussed the notion of incorporating the IOT into a state. As far back as 1991 the *Islands in the Sun* parliamentary committee report recommended that the Commonwealth initiate discussions with the Government of Western Australia regarding the long term futures of Christmas Island and the Cocos (Keeling) Islands,

71 Mr Barry Haase, private capacity, *Committee Hansard*, Canberra, 3 December 2015, p. 8.

including their possible incorporation into the State of Western Australia.⁷²

- 7.107 Ten years ago, the Joint Standing Committee on the National Capital and External Territories' 2006 report, *Current and future governance arrangements for the Indian Ocean Territories*, made a similar recommendation. Namely, that the Australian Government develops options for future governance for the IOT, in conjunction with the communities on Christmas and Cocos (Keeling) Islands, and that possible options could include incorporation into the State of WA.⁷³
- 7.108 However, it appears that no progress has been made. DIRD advised the current inquiry that issues of representation or governance structures for the IOT had not been seriously investigated for a number of years.⁷⁴
- 7.109 Witnesses maintained that incorporation goes to the crux of the governance issues in the IOT, namely that the Australian Government is trying to fulfil state-type roles in the IOT.
- 7.110 Mr Clay identified incorporation as his preferred governance option because it would allow for smoother roll-out of state services and put IOT residents on the same footing as citizens in other states and territories when it comes to representation.⁷⁵
- 7.111 Chapter Six of this report referred to the myriad frustrations experienced by former and current Administrators, regarding their perceived and actual executive powers. Mr Haase summed it up:

When it comes to problem solving, for major visions or day-to-day issues, there is a local expectation that the Administrator has the authority to make decisions that change outcomes, when the reality is that is not the case and the Administrator relies on good cooperation between Administrator and departments and Administrator and Minister...

I cannot instruct any of the administration staff to do anything. I can simply request that the Department in Canberra might make those requests for change, and therefore, change an outcome.⁷⁶

72 House of Representatives 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, see paragraphs 3.10 and 4.11 Options for Reform, pp. 53 and 87.

73 Joint Standing Committee on the National Capital and External Territories, *Current and future governance arrangements for the Indian Ocean Territories*, May 2006, p. 104.

74 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 7.

75 Mr Stephen Clay, *Submission 41*, p. 2.

76 Mr Barry Haase, private capacity, *Committee Hansard*, Canberra, 3 December 2015, p. 8.

- 7.112 Mr Haase advocated for normalising the arrangements so that the IOT is eventually the same as any other small island in Australia, that is, part of either a state or territory:

A long-term solution is for the IOT to have exactly the same status as... Melville Island or Bathurst Island. You have a clear view of governance in those places. There is no ambiguity.⁷⁷

Western Australia preferred option for some

- 7.113 WA has long been considered the logical choice for incorporation because the laws of WA apply as state-type laws and there are well-established links, including accessing health and education services. Critically, the air service operates out of Perth. Many IOT residents have ties in WA, with family members seeking work opportunities there, and property and business interests.

- 7.114 Mr Clay summarised:

The communities of interest that exist between WA and IOT are powerful arguments in favour of this option.⁷⁸

- 7.115 Mr Haase agreed that the best possible outcome would be for WA to take responsibility for the IOT, and for the IOT to be part of WA in the long-term.⁷⁹

- 7.116 Mr Tony and Mrs Roxanne Wilson said 'no other solution to consolidate makes sense' and they would like to see local government align with the WA system:

We would like to see the Shire of Christmas Island with a Mayor under Western Australia.⁸⁰

Incorporation into a state requires a referendum

- 7.117 A referendum would be required to incorporate the IOT into a state. Under section 123 of the Australian Constitution, altering the boundary of a state requires consent of the parliament of that state and the approval of the majority of electors.⁸¹

77 Mr Barry Haase, private capacity, *Committee Hansard*, Canberra, 3 December 2015, p. 8.

78 Mr Stephen Clay, *Submission 41.1*, p. 1.

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

80 Mr Tony and Mrs Roxanne Wilson, *Submission 10*, p. 1.

81 Mr Stephen Clay, *Submission 41.1*, p. 1 and Parliamentary Library, *Client Advice, Constitutional and other Barriers to incorporating an External Territory into another Existing State or Territory*, 3 August 2015, p. 2.

7.118 DIRD said, in late 2014, it had considered similar issues in relation to representation for the Jervis Bay Territory, namely reincorporation into NSW. DIRD explained that a referendum would be required in the State of NSW for that to occur. DIRD confirmed similar constitutional issues apply in relation to the IOT:

The IOT cannot be represented by a state unless that state government agrees to include it as part of its jurisdiction, and, under the Constitution, a state cannot change its borders unless the majority of its voters also agree.⁸²

7.119 DIRD noted that the majority of WA state referendums have been defeated.⁸³ Mr Yates observed that transferring the IOT to WA was possible but, in his view, the requirement for a referendum has a limited chance of being accepted.⁸⁴

Western Australia not interested

7.120 Others alluded to a lack of interest on the part of WA to even countenance incorporation of the IOT. Mr Haase said that the WA Government has little appetite to take on the IOT:

...[the] No. 1 practical hurdle is that Western Australia is not fundamentally interested in taking over responsibility for the IOT, and, at this point in time, makes a great deal of money out of the Commonwealth Government by providing Service Delivery Arrangements on the territories.⁸⁵

7.121 The Committee noted in its interim report that it approached the WA Government to make a written submission to the inquiry and appear before it at a hearing in Perth. Both invitations were declined.

Committee comment

7.122 The option to incorporate the IOT into WA might appear to be the obvious solution but the need for a referendum and a lack of interest mean this is likely not viable. Therefore an alternative is to incorporate the IOT into the NT.

7.123 If the NT is to be considered as a viable option, the pros and cons need to be considered.

82 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 7.

83 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 7.

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

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

Territory alternative

7.124 It was presented to the Committee that another alternative is for a territory to take on the IOT. Whilst the Australian Capital Territory (ACT) was once deemed a possibility, the NT would be preferable because the federal representatives of the IOT are situated there.

Does not require a referendum

7.125 Incorporation into a territory, be it the ACT or the NT, does not fall within the parameters of section 123 of the Australian Constitution. That is to say, it does not require a territory referendum.⁸⁶

7.126 However, as a matter of sound policy practice it would seem desirable to consult with, and have regards to, the views of the people both in the IOT and the potential recipient territory.⁸⁷

Potential difficulties

7.127 Mr Clay said that incorporation into the NT or ACT would be less desirable for legislative, administrative and social reasons.⁸⁸

7.128 Mr Yates and Mr Clay suggested that changing the airline service from Perth to Darwin could prove costly.⁸⁹ Mr Yates explained:

Whilst Christmas Island's distance from Darwin is close to the same as Perth's, the flights are out of Perth for reasonably good operational reasons. If you change the flights to go from Darwin, I would suggest it would be considerably more expensive, if only because Cocos is a lot further from Darwin than it is from Perth.⁹⁰

7.129 Mr Yates noted other practical problems including the cost of change associated with incorporation, the question of the ability of the NT Government to deliver the services, and disruption to the reasonably significant expatriate IOT communities that exist in WA:

First of all, the islands are used to running under the applied WA law scheme... changing it would not be a simple task. There are a

86 Parliamentary Library, Client Advice, *Constitutional and other Barriers to incorporating an External Territory into another Existing State or Territory*, 3 August 2015, p. 2.

87 Parliamentary Library, Client Advice, *Constitutional and other Barriers to incorporating an External Territory into another Existing State or Territory*, 3 August 2015, p. 2.

88 Mr Stephen Clay, *Submission 41*, p. 2.

89 Mr Stephen Clay, *Submission 41.1*, p. 1 and Mr Julian Yates, *Committee Hansard*, Canberra, 3 December 2015, p. 1.

90 Mr Julian Yates, *Committee Hansard*, Canberra, 3 December 2015, p. 1.

very wide range of delegations that would need to be changed. The local government acts are not the same. The people of the communities would need to understand how NT law worked, because it is not identical to the WA one.

...While [the NT] is able to [deliver services] in its own remote communities, that has not been without some challenges. ...there is also a much smaller public sector than in WA... There are simple things like the WA Water Authority having an enormous depth of expertise in running water systems in remote communities...

Should services and flights come from the NT, those people – both on the islands and [expatriates] in WA – would find maintaining links in fact very difficult.⁹¹

Potential positives

- 7.130 Both Mr Yates and Mr Clay noted the advantage inherent in having the state services and federal representatives aligned in the same territory.⁹²
- 7.131 Mr Yates suggested that options for closer alignment with the NT could constitute full incorporation, or be achieved through a SDA with the NT Government and NT law being applied.⁹³
- 7.132 Both appeared to be of the view that incorporation into the NT would be more challenging than WA. However, Mr Clay said, 'it would not be impossible.'⁹⁴ He noted the experience the NT has managing remote territories, such as the Tiwi Islands.⁹⁵

Moving toward a decision making process

- 7.133 Mr Clay emphasised the importance of carrying out full consultation in the IOT before any decision is taken. He said this should be a structured and adequately resourced process:

...the Commonwealth should be upfront with the WA and NT Governments as well as the IOT community about this being an

91 Mr Julian Yates, *Committee Hansard*, Canberra, 3 December 2015, p. 1.

92 Mr Stephen Clay, *Submission 41.1*, p. 1 and Mr Julian Yates, *Committee Hansard*, Canberra, 3 December 2015, p. 1.

93 Mr Julian Yates, *Committee Hansard*, Canberra, 3 December 2015, p. 1.

94 Mr Stephen Clay, *Submission 41.1*, p. 1.

95 Mr Stephen Clay, *Submission 41.1*, p. 1.

information gathering exercise, prior to a joint decision by the Commonwealth and preferred jurisdiction.

...It should canvass options and opinions before any serious consideration is given to relinquishing the IOT.⁹⁶

7.134 Mr Clay proposed the following model process, and factors for consideration:

- Formally write to both WA and NT to ascertain if they would be interested in incorporating the IOT into their state/territory boundaries. Obviously the issue of guaranteed funding to manage the IOT will be high on either jurisdiction's agenda...;
- Once it is known whether one or both jurisdictions are interested in principle, the consultation process can begin. The IOT communities will need to know what it means in a practical sense to be part of WA or NT. Possible consultative mechanisms post incorporation would need to be canvassed such as the Advisory Board model in the Tiwi Islands;
- Once you have a body of opinion from the IOT this should be reflected back;
- A model can then be developed upon which the IOT community can comment and a similar process could run in the preferred state or territory by that jurisdiction. A Commonwealth/state or territory partnership would need to be developed to go forward in a coordinated manner; and
- Once the jurisdiction is settled and the comments of the IOT have been taken into account, a decision by the Commonwealth can be made. This should then be communicated to the IOT community and the chosen state or territory. The formal state/territory can then proceed.⁹⁷

Other factors for consideration

7.135 The Parliamentary Library itemised a number of constitutional and legislative matters that would likely require consideration in the context of proposals to incorporate an Australian external territory into a state or territory, including:

- the extent and nature of inter-governmental agreement and legislation, including legislation to repeal the existing legislative framework for the IOTs, that would be required to achieve the proposed incorporation, given the existing legislative framework and administrative structure;

96 Mr Stephen Clay, *Submission 41.1*, p. 1.

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

- if the incorporation were with a state, the cost implications of the required referendum under section 123, and the likelihood that the Commonwealth would bear this cost;
- the implications (including cost implications) for existing service and other agreements between governments, and between governments and private service providers;
- the implications for Commonwealth infrastructure within the IOTs, particularly on Christmas Island;
- the voting rights of those who would be eligible to vote in Commonwealth and state or territory elections;
- with reference to the IOTs status as 'excised offshore Territories', necessary amendments to the *Migration Act 1958* (Cth); and
- the need for other legislative amendments to statutes containing references to the IOTs in other Commonwealth (and state) legislation.⁹⁸

Committee comment

- 7.136 The potential benefit of incorporating the IOT into a state or territory is that it offers a way forward for better service delivery and addressing the democracy deficit.
- 7.137 The Committee recognises that discussion of incorporation into a state or territory only appeared towards the end of the current inquiry.
- 7.138 As a result, the Committee acknowledges that it is drawing on a small pool of evidence, and that evidence does not offer detailed commentary on the WA or NT options.
- 7.139 In the absence of other information on the feasibility of either option from DIRD and others, the Committee is grateful to the witnesses it heard from, for talking to options not hitherto fully investigated, but that merit further discussion and investigation.
- 7.140 Clearly the WA and NT Governments would need to be formally approached in the first instance, by the Australian Government to determine whether they are receptive to the incorporation option.
- 7.141 To the Committee's mind, if WA remains uninterested, there appears a distinct advantage in seriously considering aligning the federal and state representation in the NT, if the NT Government were to express interest in exploring such a proposal.

98 Parliamentary Library, Client Advice, *Constitutional and other Barriers to incorporating an External Territory into another Existing State or Territory*, 3 August 2015, p. 2.

- 7.142 The Committee notes the NT Government's extensive experience in remote service delivery. Some of the challenges similar to those experienced in the IOT, include, isolation, high cost of living, access to essential services and infrastructure, social disadvantage, less developed (or narrow) market economies and limited employment opportunities.
- 7.143 The Committee also notes that the NT is strategically placed to take advantage of growth in Asia. The NT has strong political and economic ties to the region and these ties could be used to promote economic investment in the IOT.
- 7.144 The combination of the NT Government's extensive experience in remote service delivery and promoting economic activity in remote areas means it could be an attractive option for the governance and administration of the IOT.
- 7.145 Given its experience in remote service delivery, the NT Government might even be able to offer a more cost-effective service than exists at present. If the costs are the same or less than the current arrangements that the Commonwealth has with WA, that offers a financial benefit to the IOT residents and Commonwealth taxpayers alike.
- 7.146 There are of course substantial issues for consideration. As mentioned above, changing SDA and flight/freight routes from WA to NT would be significant undertakings.
- 7.147 The Committee fully recognises IOT residents have long standing family, education, work and investment links with WA, that have arisen because of the governance and administration arrangements that have been in place for the last three decades. Fundamentally altering that relationship will be challenging, but not insurmountable. If the long term prospects of the IOT prove better by pursuing more ambitious reform, and reform is something residents have said they want, then residents should be open to the possibilities contained within the proposal.
- 7.148 There would need to be extensive work and public consultation on the implications of incorporating the IOT into the NT for all parties to make an informed decision on whether incorporation is in their best interests long-term. The NT option would need to be formally supported by the residents of the IOT and the NT Government (and its people).
- 7.149 The cost of providing services to the IOT is high. Without financial transfers from the Commonwealth, it is hard to see how the NT Government would have the budget capacity to absorb the additional costs of taking on the IOT. Total expenditure in the IOT is likely to far exceed the 'own-source revenue' that could be generated by the NT from

the IOT. The NT would need to be fully compensated for all additional costs by the Commonwealth.

- 7.150 Clarity would need to be provided on the level of autonomy that the NT would have in approving major economic development projects in the IOT such as reopening the Christmas Island casino, developing the tourism industry, cultivating medicinal cannabis, expanding the phosphate mine, and encouraging international fee-paying students. Land tenure would also be a key consideration.
- 7.151 Regarding the democracy deficit that nearly everyone agrees exists in the IOT, there needs to be state representation in the IOT. The Committee recognises that there are only about 2,000 people presently living in the IOT and notes that the recent review of the redistribution of the NT Legislative Assembly electoral boundaries determined that the quota of electors for each division in the NT is 5,140 people.⁹⁹ Consideration of IOT representation in the NT Legislative Assembly would need to be subject to a review by the NT Electoral Commission.
- 7.152 The Committee notes that the Jervis Bay Territory is represented by the Port Macquarie state MP in the NSW Legislative Assembly because it does not have enough electors to warrant having its own representative. The IOT may need to similarly be added to an existing NT state division in the first instance. Should the IOT experience population growth in the future it could result in the IOT having sufficient numbers for its own dedicated representative in time.

99 Augmented Redistribution Committee, *Report on the Redistribution of Northern Territory into Divisions*, 2015, p.5, http://www.ntec.nt.gov.au/Redistribution2015/Documents/Web_Redistribution%20Boundaries%20Report.pdf, viewed 15 February 2016.

Recommendation 19

The Committee recommends that the Australian Government seek formal advice from the Governments of Western Australia and the Northern Territory to determine whether they are receptive to the proposal for incorporation of the Indian Ocean Territories into their State or Territory.

Based upon a positive response to this proposal, the Australian Government should develop an incorporation model for consultation and review.

Transitional arrangements

- 7.153 There would be a transitional period to develop and implement any new governance arrangements, including the transfer of the provision of state and local government services and potential amendments and/or new Commonwealth and NT legislation to authorise new governance arrangements.
- 7.154 Sufficient lead time should be given to ensure appropriate consultation with the NT Government, residents of the IOT and the NT, and to work through the complex issues surrounding this proposal.
- 7.155 The Committee does not underestimate the enormity of incorporation. It does however note that reform is underway on Norfolk Island to reset the governance foundation there. This is reform that for many years was hitherto thought impossible.
- 7.156 Political will and determination, devoting adequate resources, having a clear mandate, good leadership and sound execution, together with providing for full community engagement have proved integral to the timely progress of the reforms on Norfolk Island. The same principles would be critical to any successful governance change in the IOT.
- 7.157 The Committee notes the swift establishment of a shopfront presence on Norfolk Island with trained personnel deployed from the Commonwealth on ground to answer residents' questions face-to-face, about the intended reform process, following the repeal of self-government.
- 7.158 The DIRD website also provided information during the transition, including user-friendly downloadable fact sheets and newsletters to keep residents informed of developments.

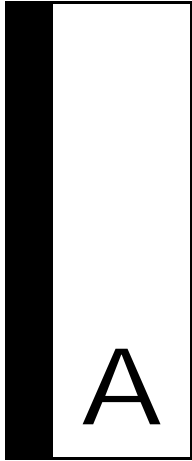
- 7.159 The DIRD website also has information on the Norfolk Island Advisory Council, which is comprised of five local residents appointed to ensure community views are represented throughout the transition process.¹⁰⁰
- 7.160 The Committee supports establishing a similar advisory council in the IOT, comprised of a suitable number and combination of members from the Christmas Island and Cocos (Keeling) Islands communities. The IOT Advisory Council would be a forum for the IOT community to raise issues and provide feedback to the Administrator and the Commonwealth Minister throughout any review and reform process. Having an elected Council would rightfully elevate the importance of community consultation and demonstrate that the Commonwealth values the input of the community throughout the journey, from the inception of the idea, and transitional arrangements right through to full incorporation.
- 7.161 The Committee recognises that the Administrator position will become redundant if incorporation proceeds. However, it is of the view that the Administrator needs to remain on island, and assist lead, throughout any transition.

Mr Luke Simpkins MP

Chair

1 March 2016

¹⁰⁰ Department of Infrastructure and Regional Development, *Norfolk Island Reforms*, http://regional.gov.au/territories/norfolk_island/reforms/, viewed 15 February 2016 and Norfolk Island Advisory Council, *About Us*, <http://www.norfolkislandadvisorycouncil.nf/>, viewed 15 February 2016.



Appendix A – Submissions and other documentary evidence

Submissions

1. Phosphate Resources Limited
 - 1.1 Supplementary to Submission 1
 - 1.2 Supplementary to Submission 1
2. Mr Jon Stanhope
 - 2.1 Supplementary to Submission 2
3. Chinese Literary Association of Christmas Island
4. Mr Julian Yates
5. Ms Valerie Coleman
6. Mr John Clunies-Ross
 - 6.1 Supplementary to Submission 6
 - 6.2 Supplementary to Submission 6
7. Mr Steve Watson
8. Christmas Island Women's Association
9. Soft Star Pty Ltd
 - 9.1 Supplementary to Submission 9
10. Mr Tony and Mrs Roxanne Wilson

11. CONFIDENTIAL
12. Mr Rahmat (Madi) Signa
13. Australian Centre for Excellence in Local Government
14. Director of National Parks
15. Casino Management International
16. Regional Development Australia – Midwest Gascoyne
 - 16.1 Supplementary to Submission 16
17. Mr Russell Payne
18. Northern Bay Pty Ltd
19. Mr Peter Griggs
20. Calmy Planning and Design
 - 20.1 Supplementary to Submission 20
21. CONFIDENTIAL
22. Dr Martin Drum
23. Department of Immigration and Border Protection
 - 23.1 Supplementary to Submission 23
24. Malay Association of Christmas Island
25. Indian Ocean Group Training Association
 - 25.1 Supplementary to Submission 25
26. Christmas Island Tourism Association
 - 26.1 Supplementary to Submission 26
27. Ms Bobbi Robertson
28. Ms Lisa Preston
29. Mr Raymond Marshall
30. Commonwealth Ombudsman
31. Western Australian Local Government Association
32. CONFIDENTIAL
33. Name withheld

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34. Mining to Plant Enterprises (MINTOPE) Project
 - 34.1 Supplementary to Submission 34
 - 34.2 Supplementary to Submission 34
 35. Mr Haji Adam
 36. Department of Infrastructure and Regional Development
 - 36.1 Supplementary to Submission 36
 - 36.2 Supplementary to Submission 36
 - 36.3 Supplementary to Submission 36
 - 36.4 Supplementary to Submission 36
 - 36.5 Supplementary to Submission 36
 - 36.6 Supplementary to Submission 36
 37. Christmas Island Neighbourhood Centre
 38. Mr Alan Whitely
 39. Mr Brian Lacy
 - 39.1 Supplementary to Submission 39
 40. Mr John Richardson
 41. Mr Stephen Clay
 - 41.1 Supplementary to Submission 41
 42. Mr Simon Millcock
 43. Mr Chris Su
 44. Cocos (Keeling) Islands Tourism Association
 - 44.1 Supplementary to Submission 44
 45. Cocos (Keeling) Islands Tourism Association and Christmas Island Tourism Association
 46. Shire of Cocos (Keeling) Islands
 - 46.1 Supplementary to Submission 46
 47. Tourism Australia
 48. China Southern Airlines
 49. Geoscience Australia

50. Mr Brett Sanderson

51. Air Timor

52. AusCann

53. CONFIDENTIAL

Other documentary evidence

1. Phosphate Resources Limited (related to Submission 1)

Attorney-General's Department Report for Crown Land Management Plan for the Indian Ocean Territories Christmas Island June 2009 (draft), prepared by GHD

Draft Shire of Christmas Island Local Planning Scheme No. 2 District Zoning Scheme, and map

Draft Christmas Island Local Planning Strategy May 2012 (parts 1-3)

2. Mr Jon Stanhope (related to Submission 2)

Various correspondence

Indian Ocean Territories Community Bulletin Edition 1: February 2014

3. Mr John Clunies-Ross (related to Submission 6)

Submission to former committee inquiry

4. Casino Management International (related to Submission 15)

Correspondence

5. Regional Development Mid-West Gascoyne (related to Submission 16)

Indian Ocean Territories Regional Plan 2012-2017

Office of the Administrator Indian Ocean Territories Public Apology communique

Draft budget IOT Regional Development Organisation

Project list

6. Softstar Pty Ltd (related to Submission 9)

Report on the structure, roles and responsibilities of Christmas Island Tourism Association, Prepared by Brian Lacy 14 October 2010

Christmas Island Resort Casino business case proposal (commercial-in-confidence) May 2013

7. Mr Russell Payne (related to Submission 17)

Christmas Island Chamber of Commerce submission to former JSCNCET inquiry

8. Mr Aaron Bowman, CEO, Shire of Cocos (Keeling) Islands

Commonwealth Department of Agriculture notice about fisheries limits

9. Mr Signa Knight

Correspondence and various documents including Kenneth Chan's paper, Cocos (Keeling) Islands: The Political Evolution of a Small Island Territory in the Indian Ocean, prepared for the Pacific Islands Development Program at the East-West Centre

10. Christmas Island Tourism Association (related to Submission 26)

Christmas Island Tourism Association Marketing Strategy 2010-2015

Quarterly reporting 1 Jan to 31 March 2015

Christmas Island Tourism Association Commonwealth Funding Account Profit and Loss Sheet March 2015

Christmas Island and Cocos Keeling Islands Marketing brochure in German

11. Calmy Planning and Design (related to Submission 26)

Curriculum vitae of Mr Herve Calmy

12. CONFIDENTIAL**13. Christmas Island Neighbourhood Centre (related to Submission 37)**

Administrator's bulletin, Edition 4: September 2014

Office of the Administrator, A Mystery Solved - The Meaning of the Expression "Comparable Community in the Rest of Australia"

Community Consultative Committee (CCC) Charter

Accommodation Needs Assessment Christmas Island and Cocos (Keeling Islands) for Department of Regional Australia, IOT Administration, June 2011

14. Mr Andy Peppercorn (related to Submission 9)

Various correspondence

15. Department of Infrastructure and Regional Development (related to Submission 36)

Timeline for review of Service Delivery Arrangements

Service Delivery Arrangements (SDA) Information kit

Schedule of SDA renegotiations from 30 June 2015 – 30 June 2017

IOT community feedback form

Fact sheets for Indian Ocean Territories residents on Services Delivery Arrangements with the Western Australian Departments of:

- Transport;
- Insurance Commission;
- Fisheries;
- Local Government and Communities;
- Finance;
- Environment Regulation; and
- Commerce

16. Mr John Sorensen (related to Submission 18)

Statutory declaration

17. Cocos (Keeling) Islands Tourism Association (related to Submission 44)

Administrator's bulletin, Edition 14: May 2015

18. Mr James Clarke

China and Australia's Indian Ocean Territories: A Study on China's Outbound Tourism Market



Appendix B – Public hearings

Thursday, 26 March 2015 – Canberra

Phosphate Resources Limited

- Mr Kevin Edwards, Chief Operating Officer and Company Secretary

Wednesday, 8 April 2015 – Cocos (Keeling) Islands

Shire of Cocos (Keeling) Islands

- Mr Aaron Bowman, Chief Executive Officer
- Mr Zak Lakina, Acting President
- Councillor John Clunies-Ross

Persatuan Kebudayaan Pulu Kokos

- Mrs Danie Olbio (Nek Namira), Secretary

Cocos Keeling Islands Tourism Association

- Mrs Juliane Bush, Marketing Manager

Australian Federal Police

- Acting Sergeant Kyle Saltmarsh, Officer in Charge

Private capacity

- Mr Keir Fraser

Office of the Administrator of the Indian Ocean Territories

- Mr Barry Haase, Administrator

Community statements

- Mr Colin Bloomfield, private capacity
- Mr John Clunies-Ross, private capacity
- Ms Darling Elat, Member, Seniors Group
- Mr Signa Knight, private capacity, through translator Mr Minkom

Thursday, 9 April 2015 – Christmas Island

Christmas Island Women's Association

- Ms Regine Andersen, Secretary
- Ms Nora Koh, President

Shire of Christmas Island

- Councillor Gordon Thomson, President
- Mr Kelvin Matthews, Chief Executive Officer

Union of Christmas Island Workers

- Mr Gordon Thomson, General Secretary

Christmas Island Tourism Association

- Ms Karenn Singer, Manager

Malay Association of Christmas Island

- Mr Mohammed Dardak, Member

Christmas Island Islamic Council

- Mr Zainal Abdul Majid, President

Indian Ocean Group Training Association

- Mr Daniel Becker, General Manager
- Mr Chris Su, Chairperson

Private capacity

- Mr Noel (Alan) Thornton

Arts and Culture Christmas Island

- Ms Patricia Power, Chairperson

Office of the Administrator of the Indian Ocean Territories

- Mr Barry Haase, Administrator

Friday, 10 April 2015 – Christmas Island

Softstar Pty Ltd

- Mr Michael Asims, Owner's representative

Community statements

- Mr Kamala Alagadorai, private capacity
- Mr Ron Lines, private capacity
- Mr Hafiz Masli, private capacity
- Mr Kelvin Matthews, private capacity
- Ms Trish O'Donnell, private capacity

- Mr John Richardson, private capacity
- Mr Billy Tan, private capacity
- Mr Stephen (Steve) Watson, private capacity

Friday, 8 May 2015 – Perth

Mining to Plant Enterprises (MINTOPE) project

- Mr Neil Ballard, Cropping and Procurement Manager

Regional Development Australia Mid-West Gascoyne

- Mr Alan Bradley, Executive Officer

St John Ambulance

- Mr Justin Fonte, Operations Manager, Country Ambulance Service

Private capacity

- Dr Martin Drum, private capacity
- Mr Russell Payne, private capacity
- Mr Rahmat Madi Signa, private capacity

Thursday, 14 May 2015 – Canberra

Department of Infrastructure and Regional Development

- Ms Robyn Fleming, Executive Director, Local Government and Territories Division
- Ms Karen Lindsay, Acting General Manager, Jervis Bay and Indian Ocean Territories Branch

Thursday, 25 June 2015 – Canberra

Northern Bay Pty Ltd

- Mr Bjarne (John) Sorensen, Director (via teleconference)

Parks Australia

- Ms Sally Barnes, Director of National Parks

Department of Immigration and Border Protection

- Mr Neil Skill, First Assistant Secretary, Detention Services Division
- Ms Fatime Shyqyr, Assistant Secretary, Detention Infrastructure Branch

Thursday, 13 August 2015 – Canberra

Tourism Australia

- Mr Tim Mahony, Government and Media Relations Manager
- Mr Leigh Sorensen, General Manager, Industry Relations

Christmas Island Tourism Association

- Ms Karenn Singer, Manager (via teleconference)
- Ms Lisa Preston, Chairperson (via teleconference)

Cocos (Keeling) Islands Tourism Association

- Mr Dieter Gerhard, Chairperson (via teleconference)
- Mrs Dianne Evans, Visitor Centre Manager (via teleconference)

Thursday, 20 August 2015 – Canberra

Shire of Christmas Island

- Councillor Gordon Thomson, President (via teleconference)
- Mr Kelvin Matthews, Chief Executive Officer (via teleconference)

Shire of Cocos (Keeling Islands)

- Mr Aaron Bowman, Chief Executive Officer (via teleconference)
- Councillor John Clunies-Ross (via teleconference)

Thursday, 10 September 2015 – Canberra

Mining to Plant Enterprises (MINTOPE) Project

- Mr Herve Calmy, Project Manager (via teleconference)

Department of Infrastructure and Regional Development

- Ms Robyn Fleming, Executive Director, Local Government and Territories Division
- Mrs Karen Lindsay, Acting General Manager, Jervis Bay and Indian Ocean Territories Branch

Thursday, 17 September 2015 – Canberra

Office of the Commonwealth Ombudsman

- Mr Colin Neave, Commonwealth Ombudsman
- Mr Richard Glenn, Deputy Ombudsman
- Mr Simon Passlow, Assistant Director

Global Enterprises Group Pty Ltd

- Mr James Clarke, Managing Director (via teleconference)

Thursday, 15 October 2015 – Canberra

Department of Infrastructure and Regional Development

- Ms Robyn Fleming, Executive Director, Local Government and Territories Division
- Ms Karly Pidgeon, General Manager, Jervis Bay and Indian Ocean Territories Branch

Thursday, 12 November 2015 – Canberra

Private capacity

- Mr Jonathan (Jon) Stanhope
- The Hon Brian Lacy
- Mr Barry Haase (via teleconference)

Monday, 23 November 2015 – Canberra

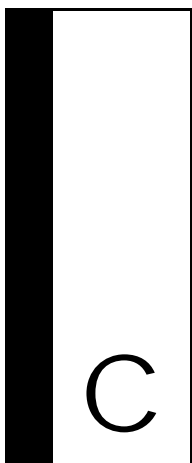
Air Timor

- Mr Edward Turner, Chief Operating Officer (via teleconference)

Thursday, 3 December 2015 – Canberra

Private capacity

- Mr Julian Yates
- Mr Stephen Clay
- Mr Barry Haase (via teleconference)



Appendix C – Indian Ocean Territories services provision

- 1.1 In the absence of a traditional 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) or an exchange of letters with Western Australian (WA) Government agencies;
 - contracts with private entities; and
 - directly, where services cannot be provided via an SDA or privately.¹

Services delivered by Western Australian Government agencies

- 1.2 The *Christmas Island Act 1958 (Cth)* and the *Cocos (Keeling) Islands Act 1955 (Cth)* (Section 8H) empowers DIRD, on behalf of the Commonwealth, to enter into arrangements with WA Government agencies for the delivery of state-type services in the territories.² WA Government agencies are considered best placed to deliver services because WA law is applied in the IOT.³
- 1.3 A State-Coordinator, funded by DIRD and situated in the WA Department of Premier and Cabinet, assists DIRD to negotiate formal SDA with

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

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

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

individual WA Government agencies.⁴ Where a formal SDA is inappropriate or not possible due to legislative constraints DIRD engages WA agencies through an exchange of letters.⁵

Via formal Service Delivery Arrangements (SDA)

As at July 2015 the following WA Government agencies were engaged under an SDA to deliver state-type services in the IOT on behalf of the Commonwealth.⁶

WA Government agency	Services provided
Department of Agriculture and Food	Delivers biosecurity support to minimise the impact of identified noxious weed species on the environment of the IOT.
Department of the Attorney General	Provides access to the justice system including judicial and non-judicial court services; registry office; state solicitor's office; public advocate and victim support and child witness service.
Department for Child Protection and Family Support	Provides professional supervision and support for the IOT Social Worker. Assists in administering the applied legislation concerning Working with Children Checks.
Department of Commerce (Including Building Commission, Consumer Protection, Energy Safety and WorkSafe)	Supports the application of building and plumbing, consumer protection; energy safety (electricity and gas); occupational safety and health legislation; and regulatory services.
Department of Corrective Services	Provides offender management and community justice services.
Department of Culture and the Arts	Provides broad policy and planning services; arts development services (including art funding administration); art gallery services; museums services; and cultural planning services.
Disability Services Commission	Works in partnership with IOT service providers to provide information, and support services to people with disabilities, their families and carers in the IOT, including the services of a Local Area Coordinator.
Economic Regulation Authority	Promotes economically efficient outcomes at the lowest practicable cost through efficient and effective independent economic regulation. Provides independent advice to the Australian Government.
Department of Environment Regulation	Protects and conserves the IOT environment through advice and implementation of strategies for a healthy environment in the IOT to protect public health, minimise environmental impact and implement environmental policy to the IOT. This includes regulation of prescribed premises, native vegetation, pollution, contamination, emissions and wastes, and incident protection and response, environmental sustainability and climate change and waste policy and programmes.
Equal Opportunity Commission of WA	Provides information and advice on equal opportunity and human rights issues. Investigates complaints under the applied

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

5 Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, p. 1.

6 Department of Infrastructure and Regional Development, *Indian Ocean Territories 2015-16 Budget Overview and 2014-15 Budget Outcomes*, July 2015, pp. 4-7.

	equal opportunity legislation.
Department of Finance	Collects state-type revenue in accordance with applied legislation and remit revenue to the Australian Government. Sub-contracts JLL to manage commercial properties. Provides advice on energy policy and regulatory matters in the IOT.
Department of Fire and Emergency Services	Supports volunteer brigades, including planning and training.
Department of Fisheries	Assists with the protection of the IOT marine environment through: commercial and recreational fisheries management; fisheries research and assessment; fisheries community education; aquatic biosecurity services; fish health diagnostic and pathology services; fisheries compliance services; and aquaculture management and licensing.
Department of Health	Provides regulatory, advisory and other support services and specialist advice to the Australian Government, including to the IOT Health Service. Provides accessible in-hospital services and care in WA. Provides community and public health policy advice and support, and tobacco licensing services and compliance. Provides screening and diagnostic mammography services through Breastscreen WA.
Health and Disability Services Complaints Office	Investigates complaints about the provision of health and disability services in the IOT.
Department of Housing	Provides advice and support to the IOTA Housing Unit for the effective administration of social housing.
Insurance Commission of WA	Provides funds management, expert advice and claims handling services in relation to the operation of a compulsory third party insurance scheme in the IOT.
Landgate	Provides land information services, including registration of title, and geographic and cadastral information. Provides impartial valuation services supporting asset management and revenue collection.
Department of Lands	Administers Crown land.
Legal Aid Commission of WA	Provides legal services to those in need and assistance to the community in accessing justice.
Department of Local Government and Communities	Provides licensing, monitoring and support services for childcare providers, including family day care. Implements programs for social inclusion and develop partnerships with non-government organisations. Supports the volunteer Resource Centre and Neighbourhood Centre on CI (including funding administration). Ensures compliance with applied local government legislation and facilitate the development of local government.
Main Roads WA	Provides advice on road funding. Provides direct support and advice to the local government on traffic management and road networks.
Department of Mines and Petroleum	Registers IOT mineral titles and provide advice on associated environmental matters. Collects mining revenue. Regulates resources safety issues, including the storage, transport and handling of dangerous goods.
Department of Planning	Provides planning and administrative advice to ensure the use and development of land is consistent with strategic planning, policy guidelines and planning standards. Provides advice and assistance to the Australian Government on coastal planning issues. Provides professional and technical expertise, administrative services, and resources to advise the WA Planning Commission.
Planning Commission (WAPC)	Provides information, advice and recommendations to the Minister on land use planning and land development matters.
Public Trustee	Provides trustee services, including the preparation of wills and

	provision of executor and administrator services.
Department of Racing, Gaming and Liquor	Provides liquor licensing services, including compliance audits and inspection of licensed premises.
Department of Regional Development	Supports community capacity building and regional development through support to the CKI Community Resource Centre (including funding administration).
Department of Sport and Recreation	Provides advice to the Australian Government and the local governments on the sporting and recreational needs. Provides advice to sporting and recreational groups.
State Library of Western Australia	Provides local authorities and associated bodies with library materials, information and support services.
Department of Training and Workforce Development	Provide training and advice to vocational and adult education and training providers. Register and monitor apprentices and trainees.
Department of Transport	Provides advice, assistance and support on transport issue including driver and vehicle licensing, vehicle safety standards, marine safety, taxi/charter (passenger transport), transport planning, aviation freight and active transport.
Department of Water	Provides advice and support to the Australian Government on licensing and water source regulation.
Water Corporation of WA	Provides water and wastewater services to the communities on CI and CKI, and electricity generation and supply to the CKI communities. These services include the procurement of assets and the planning and management of the capital works programme.
WorkCover WA	Administers the <i>Workers Compensation and Injury Management Act (1981) (WA)(CI)(CKI)</i> for the benefit of injured workers.

Via an exchange of letters

As of 15 October 2016 the following WA Government agencies were engaged via an exchange of letters to deliver state-type services in the IOT on behalf of the Commonwealth.⁷

WA Government agency	Services provided
Office of the Auditor General for Western Australia	Undertakes an annual audit of WA Government agencies providing services to the IOT.
Department of Education	Operates the Christmas Island District High School and the Cocos (Keeling) Islands District High School, providing school-based education for Kindergarten to Year 10 (CKI) and to Year 12 (CI) students under the WA curriculum.
Department of the Premier and Cabinet	Facilitates negotiations between WA government agencies and the Australian Government. Coordinates the IOT Program on behalf of the WA Government.

⁷ Ms Robyn Fleming, Executive Director, Local Government and Territories Division, Department of Infrastructure and Regional Development, *Committee Hansard*, Canberra, 15 October 2015, pp. 1-2; Department of Infrastructure and Regional Development, *Indian Ocean Territories 2015-16 Budget Overview and 2014-15 Budget Outcomes*, July 2015, pp. 4-7.

Services delivered by private providers

DIRD engages private providers to deliver services that are unable to be delivered by WA Government agencies, or that require support in the absence of a viable commercial market. As of July 2015 the major private providers delivering services in the IOT were as follows.⁸

Company	Services provided
Virgin Australia Airlines	Virgin Australia Airlines provides air services from Perth to the IOT, including commercial-grade passenger services to Christmas Island and to Cocos (Keeling) Islands each week and air freight services to the IOT.
Toll Remote Logistics	Manages the day-to-day operation of the Christmas Island and Cocos (Keeling) Islands airports.
Patrick Stevedoring Pty Ltd (a subsidiary of Asciano Ltd)	Manages the day-to-day operation of the Christmas and Cocos (Keeling) Islands port facilities. ⁹
Casa Leisure	Manages the Christmas Island Recreation Facility. ¹⁰
Cocos Cooperative	Operates the Cocos (Keeling) Islands ferry and bus services. ¹¹

8 Department of Infrastructure and Regional Development, *Indian Ocean Territories 2015-16 Budget Overview and 2014-15 Budget Outcomes, July 2015*, pp. 1, 8.

9 Department of Infrastructure and Regional Development, *Community Bulletin 62/2015*, 10 December 2015, p. 1.

10 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 1; Casa Leisure, *Christmas Island Recreation Centre*, <http://www.casaleisure.com.au/christmas-island-recreation-centre/home/>, viewed 15 February 2016.

11 Department of Infrastructure and Regional Development, *Submission 36.2*, p. 1.

Services delivered directly by the Commonwealth

DIRD and other Commonwealth Government agencies directly deliver some federal, state and local-type services in the IOT, where appropriate or in the absence of a willing WA Government agency or private provider. As of July 2015 the major Commonwealth agencies directly delivering services in the IOT were as follows.¹²

Commonwealth agency	Services provided
Australian Federal Police	The AFP is responsible for regulatory functions, such as the service of court documents and civil process, marine compliance, and vehicle licence testing. The AFP also provides customs and immigration services under arrangements with the responsible Australian Government agencies. ¹³
Department of Immigration and Border Security	The Department of Immigration and Border Security operates the Indian Ocean Territories Customs Service and is responsible for undertaking border related functions on Christmas Island including the arrival and departure of aircraft, ships, yachts, launches and accompanying passengers, crew and cargo. ¹⁴
Department of Agriculture	The Department of Agriculture conducts inspections when passengers and cargo arrive at Christmas Island and Cocos (Keeling) Islands to verify compliance with biosecurity requirements. ¹⁵
Department of Infrastructure and Regional Development	The Australian Government is responsible for the operation of the IOT Power Service. Power services include the generation and supply of power, maintenance and replacement of infrastructure, management of the fuel contract, conducting electrical safety inspections, and delivery of a renewable energy buy back scheme for private home and business owners utilising solar power. ¹⁶
Department of Infrastructure and Regional Development	The Australian Government provides health services to the IOT communities through the IOT Health Service (IOTHS), which operates a primary health care service. The IOTHS operates a 24 hour, eight bed health service on CI, and clinics with on-call services after hours on Home and West Islands on CKI. Visits to health specialists are funded by the

12 Department of Infrastructure and Regional Development, *Indian Ocean Territories 2015-16 Budget Overview and 2014-15 Budget Outcomes, July 2015*, pp. 1-12.

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

14 Christmas Island Airport, *Australian Customs Service*, <http://www.christmasislandairport.com/airline.html>, viewed 15 February 2016; Department of Immigration and Border Protection, *Customs House Christmas Island*, <http://www.border.gov.au/Locations/Pages/Australia/Customs-House-Christmas-Island.aspx>, viewed 15 February 2015.

15 Department of Agriculture, *Travelling or sending goods, including cargo to the Indian Ocean Territories*, <http://www.agriculture.gov.au/travelling/sending-goods-cargo-indian-ocean>, viewed 15 February 2016.

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

	Australian Government, including for Speech Pathology, Occupational Therapy, Physiotherapy, Podiatry and Optometry. Where it is not within the capability of IOTHS to provide ongoing care to patients, transfer is arranged to an appropriate health facility in WA. ¹⁷
Department of Infrastructure and Regional Development	<p>A number of services are delivered directly by the Commonwealth through the IOTA. IOTA has an office on both CI and CKI. Services provided by IOTA include:</p> <ul style="list-style-type: none">▪ power generation and distribution;▪ health services;▪ community infrastructure;▪ Magistrates court, motor vehicle registration (CI only), Collector of Public Money;▪ employee and public housing maintenance and management; and▪ land management (the Commonwealth is responsible for a significant portion of land in the IOT).¹⁸

17 Department of Infrastructure and Regional Development, *Indian Ocean Territories 2015-16 Budget Overview and 2014-15 Budget Outcomes*, July 2015, p. 11.

18 Department of Infrastructure and Regional Development, *Service Delivery Arrangement (SDA) Information Kit*, August 2015, p. 13.

