

Supplementary Submission to the Joint Standing Committee on the National Capital and External Territories

INQUIRY INTO GOVERNANCE IN THE INDIAN OCEAN TERRITORIES

Introduction

I attended the hearing of the Joint Standing Committee on the National Capital and External Territories on 3 December 2015. As there was limited time to provide responses to questions I thought I would provide some brief additional evidence on two of key questions - What is the preferred model of governance for the IOT? and; Could the Local Shires take on more functions?

Preferred Governance Model

As I stated in my evidence, my preferred governance model for the IOT is one that involves incorporation into a state or territory. Logically the state in this instance would be WA and the territory NT. To alter a boundary of a state requires consent of the Parliament of that state and the approval of the majority of electors as per section 123 of the Constitution. While section 122 makes provision for the Commonwealth to make laws in relation to territories, the changes to the disallowance powers in 2010 seems to confer more autonomy on the NT and therefore any alteration to its boundaries would require broad consultation. I am not a lawyer so the mechanics of either the state or territory option would need specialist advice.

In my opinion the preferred option is incorporation into WA. The current applied law system and administrative arrangements make this a smoother transition and the communities of interest that exist between WA and the IOT are powerful arguments in favour of this option. NT would be problematic but not impossible. NT is used to managing islands such as the Tiwi Islands and the Federal seat of Lingiari is within NT. One downside, as mentioned by Mr Yates in his evidence, is the airline services. It could prove more costly to run a service from Darwin to the IOT due to distance and the existing pathway for IOT residents is through Perth which may result in additional commuting costs for the Darwin/Perth leg. In the end, economic costs involved in each option need to be well known before a decision is made.

This leads me to the decision making process. My recommendation is that before any decision is made a full consultation process be carried out in the IOT. As stated in my evidence this should be a structured and adequately resourced process. I think the Commonwealth should be up-front with the WA and NT governments as well as the IOT community about this being an information gathering exercise prior to a joint decision by the Commonwealth and the preferred jurisdiction.

If a decision is to be made, it should be one to canvass options and opinions before any serious consideration is given to relinquishing the IOT.

I see the process for either option running along similar lines as below:

- 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. I see "in principle" agreement as the best that can be hoped for.
- 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.
- Once the jurisdiction is settled and the comments of the IOT community 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 referendum can then proceed.

This will not be an easy or expedient process with many points of failure. This needs to be maturely stated to the IOT community and the state or territory. I cannot over-state the need to adequately resource this process. The Department will need to ramp up its focus on this policy initiative should the decision to start be given.

Local Government

As I stated in my original written submission, the IOT community is small and there is scope to re-define how local government should be structured and how it delivers services. The current review of local government in NSW is focussing on councils that do not have financial viability. Should that model be applied to the IOT they would be ripe for amalgamation. However that is not possible in the IOT. 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. Services that could be passed on to local government include economic development, tourism, utilities management, emergency management and all road responsibility throughout the territories.

The two territories that make up the IOT are very different, and having one local authority with say a branch office on Cocos will not work as they could suffer from lack of representation.

A thorough review of local government in the IOT would be a starting point. I suggest that the Commonwealth Grants Commission review current service delivery and this report be considered in conjunction with a formal review.

At the very least, any duplication of services between the IOT Administration and the shires should be addressed. This particularly applies to management of public spaces such as reserves and parks. In addition the communication between the shires and the Commonwealth could be improved.

Depending on the final model of governance, there is scope for local government to take on a greater role provided it is supported and funded.

Thank you for the opportunity to make this supplementary submission to the Committee and I would be happy to discuss any of the issues I have raised.

Stephen Clay

1 January 2016