

**Review of the
Department of Immigration and
Multicultural Affairs'
Operations in the
Torres Strait**

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LIST OF ABBREVIATIONS AND ACRONYMS

ACS Australian Customs Service
AFMA Australian Fisheries Management Authority
AFP Australian Federal Police
AMSA Australian Maritime Safety Authority
AQIS Australian Quarantine Inspection Service
ATSB Australian Transport Safety Bureau
AUSAID Australian Agency for International Development
CDMA Code Division Multiple Access
CIG Central Intelligence Group
CPM Collector of Public Monies
DFAT Department of Foreign Affairs and Trade
DIMA Department of Immigration and Multicultural Affairs
ECP Economic Cooperation Program
EL Executive Level
EPIRB Emergency Position Indicating Radio Beacon
IT Information Technology
ICSE Integrated Client Systems Environment
JAC Joint Advisory Committee
MMO Movement Monitoring Officer
MOU Memorandum of Understanding
nm nautical miles
PM&C Department of Prime Minister and Cabinet
PNG Papua New Guinea
ROPAC Regional Operations Planning Committee
SES State Emergency Service

Alternate Names For Some Outer Islands

Warreber/Sue Island
Poruma/Coconut Island
Mer/Murray Island
Erub/Darnley Island
Ugar/Stephen Island
Iama/Yam Island
Masig/York Island

1. EXECUTIVE SUMMARY

1.1 Author John Singe said in 1979 that “the Torres Strait is a beautiful but harsh environment. Nature does not give, and never has given, quarter to those who are unequal to its demands. In these challenging surroundings the Torres Strait Islanders made a home. Over the centuries they created a life style unique in the region, one totally integrated with the sea.”¹ This context for the department’s operations in the Torres Strait remains valid today.

1.2 A touchstone for the department’s operations in the Torres Strait is effective cooperation with local island communities, with other Commonwealth agencies, with those of the Queensland Government and with PNG.

1.3 Torres Strait is a remote location encompassing a large area with a very small population. Working in such locations often results in personality centric management, with less apparent relevance or observance of formal rules and systems and a culture of informality and ambiguity. Because of this culture there is a greater need than usual to monitor and ensure compliance with policies and procedures.

1.4 The department’s Torres Strait operations have had a lesser priority with senior managers attention having been diverted by other priorities. Despite initiatives in recent years including the capital funding for some new office accommodation, replacement of boats, funding for new office equipment and revision of conditions of employment for Movement Monitoring Officers (MMOs) there is a need for investment in numbers of areas of the department’s operations and for closer attention by senior managers.

1.5 The carriage of the department’s responsibilities for the free movement of traditional inhabitants for traditional activities under the Torres Strait Treaty is the major element of workload. The staff monitoring these movements are 27 Movement Monitoring Officers who are residents of each of the 13 inhabited islands in the Protected Zone.

1.6 Movements of traditional inhabitants totalled 50 978 in 2004-05 compared to 20 337 a decade earlier. The number of movements can be expected to increase gradually.

1.7 Participation in Treaty consultative and liaison processes and in the Treaty awareness program are important activities for the Torres Strait staff. A key by-product of these consultations is the opportunity to visit PNG villages and to develop and maintain contacts with PNG officials contributing to gaining contemporary information about matters potentially affecting border security.

1.8 In 1997 the Department of Prime Minister and Cabinet led a review which highlighted the high priority the Government attaches to adequate protection of our boundaries from illegal and illicit activity. It concluded, in part, that the Torres Strait is, from a surveillance perspective the most intensively patrolled of Australia’s

¹ Singe, J. *The Torres Strait: People and History* Queensland University Press 1979

maritime zones. While the detected level of illegal cross border activity in the Strait is relatively low, the potential threat is significant. Agency representatives I met in the course of my Review considered the 1997 assessment remains apposite.

1.9 MMOs, with their very close links to local island communities, links to PNG villagers and with their land and sea patrols of the islands and sea routes, are in a position to, and do, identify and report on suspicious activity.

1.10 Attempts to cross from PNG unlawfully continue but the PNG authorities and the department's network of contacts in and around PNG "treaty villages" alert Australian officials that these people may seek to cross the border unlawfully. Cooperation with PNG officials can and does prevent many such crossings.

1.11 I was impressed with the concept of MMOs as being an appropriate response to the current risks and to the context of the department's operations in the Torres Strait Protected Zone.

1.12 Consideration should be given to reviewing the current non ongoing employment status of MMOs. The issue of the recognition of prior service for those MMOs who used to be contract employees needs to be resolved, soon.

1.13 The method of recording the movements of traditional inhabitants requires a significant revamp and to the extent practicable needs to be a computerised database.

1.14 The Thursday Island office performs very few of the "traditional" DIMA regional office functions.

1.15 I consider a new position of Executive Level 2 should be established in Cairns as Regional Manager North Queensland with principal responsibility for both Cairns and Torres Strait operations.

1.16 The department has capital funding for eight dongas on the outer islands. Every effort should be made to use the funds and have acceptable office accommodation made available. This will require considerable effort by the Thursday Island staff.

1.17 Generally the department's office locations on outer islands are poorly equipped. Computers on Boigu, Saibai, Dauan and Yam are a priority. Attention needs to be given to upgrading other equipment and furniture in these outer islands and elsewhere.

1.18 A training plan with programs developed for the specific context of the Torres Strait needs to be developed and implemented. The plan needs to take account of the significantly increased inspection/follow up/compliance which must be undertaken across all key departmental activities by, at least, the Thursday Island Regional Manager and the proposed new senior position in Cairns.

1.19 More and more relevant training, greater expectations of MMOs in undertaking of their duties eg in recording movements, provision of better equipped offices and their recognition of a greater oversight from Thursday Island in how they are

performing can all contribute to a desirable enhancement in the professionalism of the officers.

1.20 The entry of PNG citizens to the Protected Zone for medical treatment is a significant and growing workload for Torres Strait staff.

1.21 The July 2005 amendments to the regulations under the *Migration Act* to excise islands in the Strait has had the effect that persons arriving from a place outside Australia without a visa can no longer apply for or be granted a visa while they remain in Australia. This particularly affects PNG citizens coming for emergency medical treatment and staff have taken a flexible and commonsense approach and facilitated the entry of medical patients and their escorts. But such people are in Australia unlawfully. Although much work has been done to resolve the issue of their legal status this issue must be brought to a head and resolved as a priority.

1.21 Since 1999 the department has had boats located on outer islands of the Torres Strait. Prior to their removal from service, following the loss of the *Malu Sara* in October 2005, boats were located on six islands. These boats have been used to respond to reports of suspicious activity, patrols of surrounding islands and of the main sea channels, search and rescue and occasional assistance with transport of staff from other agencies eg Native Title Tribunal and Australian Fisheries Management Authority.

1.22 I consider that to carry out its role in the Torres Strait the department needs to have access to the sea. It needs to have access to boats to enable it to, at least, investigate reports on suspected illegal activities on islands and waters surrounding the 13 islands in the Protected Zone and to undertake patrols of major sea channels including as a deterrent to unauthorised activity.

1.23 The Review has commenced the process of establishing the business need for boats on each island. This process will need to be completed by the department. Not all islands have a DIMA boat located on them nor will all in the future. Of the 13 inhabited islands in the Protected Zone 10 have a boat located on them from one at least one of DIMA, ACS or AQIS. It is important to note that the capability requirements of AQIS vessels are different from those of DIMA and ACS.

1.24 When a business case for the location of a DIMA boat on an island is established, a first consideration should be whether, if any agency has a boat on that island, could DIMA's requirements be met by use of that vessel. Both ACS and AQIS have indicated a readiness to consider cooperative arrangements for the use of their boats. None of the agencies boats are currently heavily used and there is a strong case for developing arrangements for joint use.

1.25 Presently four of the six DIMA boats are located on islands where there are no other Commonwealth boats and I would expect that following the needs assessment above there will remain some islands where only DIMA has a need for a boat. However, the number of such locations may well be less than four. If it retains ownership of some boats DIMA will need to establish a central process to acquire and manage boats for the Torres Strait. AQIS have a national vessel acquisition and management process which DIMA could look to as a model.

1.26 In managing the operation of the boats DIMA will need to meet new and significantly upgraded requirements for Commonwealth vessels very recently advised by the Australian Maritime Safety Authority. ACS, which manages a much larger fleet of small vessels, has expressed a willingness to consider cooperative arrangements to assist in the training of crew, compliance with necessary checking that boats and equipment are in good working order and crew qualifications current.

2. LIST OF RECOMMENDATIONS

Paragraph numbers refer to the location of paragraphs in the body of the Report

DIMA Boats

5.1.3.40 The department needs to finalise the preliminary assessment of the business need for the utilisation of boats included in this review report.

5.1.4.14 Where a DIMA need for boat is established on an island and ACS or AQIS have a vessel located on that island a first step would be to consider whether either of those agencies boats have the capabilities and would be reasonably available to meet DIMA's requirements. Any such arrangements would need to be appropriately formalised.

5.1.4.15 Where the review of business needs establishes that a boat is required on an island and where no other agency has a suitable vessel DIMA should acquire its own boat.

5.1.6.5 The department put in place a central process to manage the acquisition and operation of all departmental vessels. This process to include necessary expertise from outside DIMA.

5.1.6.6 The current standard operating procedures be reviewed for the operation of boats in the Torres Strait. A person with appropriate expertise and with experience of the local environment should be engaged to review the procedures. The procedures will need to take account of the outcomes of inquiries, still current, into the loss of the *Malu Sara* and of new AMSA requirements.

5.1.7.4 The department put in place a regime for ensuring that requirements that boats and equipment are in good working order and that crew qualifications are current. Opportunities may exist to work closely with other Commonwealth agencies, with necessary expertise, to ensure necessary compliance with requirements.

Movement Monitoring Officers

5.2.1.16 That the statement of roles and functions of MMOs be updated in the light of decisions made following consideration of this Report.

5.2.3.5 Action be taken to resolve the outstanding issue of the recognition of prior service for MMOs consequent upon their change of status from contract to non-ongoing staff.

5.2.3.6 Further consideration is given to the employment status of MMOs and whether they should not enjoy ongoing rather than non-ongoing status.

5.2.4.4. After a decision has been made on the location of boats, a review be undertaken of hours allocated to MMOs on each island.

Recording of Movements

5.3.15 A significant revamp be undertaken of the content of the records and methods of recording (ie move to computerisation) of the movements of traditional inhabitants into and out of the Protected Zone.

New Senior Management Position

5.4.12 A new position of Executive Level 2 be established in Cairns with responsibility for the Thursday Island and Cairns offices. The occupant of this position would be a member of the Queensland State Office Executive.

Office Accommodation and Equipment

5.5.9 Capital funds for eight new dongas are available and efforts should be made to ensure that new office accommodation is provided on many outer islands.

5.6.7 There be a significant up grade in office equipment and furniture. Four computers recently purchased be installed and early consideration be given to having these brought on line.

5.6.8 Consideration be given to making mobile phones available as CDMA phone coverage extends across the Strait. The availability of such phones would improve the possibility of out of hours communication.

Recognition of Importance of Cooperative Relationships

5.8.8 The department recognise, in the selection of the person to occupy the Regional Manager position, a priority for attributes which will facilitate maintaining liaison and development of cooperative relationships with many parties in the Torres Strait. The extent of liaison needs to be recognised with provision of adequate funding for travel and time to build and maintain personal contacts.

Training

5.9.14 There is a need to invest in additional training both in relation to new responsibilities eg the use of computers and boats, but also in relation to ongoing responsibilities such as the delegations and the application of the Code of Conduct.

Reporting

5.10.8 Regular reporting on key aspects of Torres Strait operations from Thursday Island to the Queensland and National Offices needs to occur. The three Offices should agree from time to time on the principal issues to be reported upon and there needs to be a consistent feedback from Queensland and National Offices to matters raised by Thursday Island.

5.10.9 New and structured reporting arrangements be instituted to facilitate MMO reporting on boat useage.

Persons Entering Australia Through the Torres Strait for Medical Treatment

4.9.11 Priority be given to necessary legislative amendments to ensure that PNG citizens entering Australia through the excised islands of the Torres Strait as medical patients (and their escorts) enter and remain lawfully.

5.11.7 The department give added priority to pressing relevant Commonwealth and Queensland agencies to make real progress towards resolving the policy and procedural framework for treating PNG citizens who enter the Protected Zone and move to Thursday Island (or further south) for medical treatment. If timely progress is not made the department should consider advising the Minister of possible implications for the administration of migration policy.

Traditional Adoptions

5.12.4 Early action be taken to resolve the small number of customary adoptions which have been outstanding in the Torres Strait for some time.

3. BACKGROUND TO THE REVIEW

3.1 Terms of Reference

3.1.1 This is a Report reviewing the operations of the Department of Immigration and Multicultural Affairs (DIMA) in the Torres Strait.

3.1.2 The terms of reference for the Review are;

1. *Document and evaluate the nature and extent of the work currently undertaken by the Department in the Torres Strait.*
2. *Analyse and report on whether the existing arrangements and systems meet the department's obligations under the Treaty and contribute effectively to border security.*
3. *Examine and report on whether there is scope for an alternative method for these responsibilities to be met and managed.*
4. *Specifically evaluate whether a departmental marine capability is required to meet its responsibilities or whether there is an alternative to a departmental owned and managed unit.*
5. *If a maritime unit is re-established, advise how this should be managed, how the department should go about developing operational standards and operating procedures, training programs and safety standards.*

3.2 Important Qualification

3.2.1 A departmental investigation was undertaken into the circumstances surrounding the loss of the DIMA vessel the *Malu Sara* and its five occupants. The *Malu Sara* foundered off Mabuiag Island on 15 October 2005.

3.2.1 This investigation recommended, inter alia, that DIMA review its operational focus in the Torres Strait, examine whether there should be an enhanced management reporting structure for north Queensland (based in Cairns), review the need to maintain an independent marine patrol and the original basis for setting up vessel patrols be revisited.

3.2.3 It is important to note that the Review, the subject of this Report, does **not** address the circumstances which led to the loss of the *Malu Sara* and its five occupants. Investigations into this event are being made by competent authorities.

3.3 How the Review was Undertaken

3.3.1 The Review was carried out between 3 January and 17 February 2006.

3.3.2 It involved consultations with officers in DIMA National Office, in the Queensland State Office and in the Cairns Office.

3.3.3 I met with relevant senior officers in the Australian Federal Police (AFP), Australian Quarantine and Inspection Service (AQIS), Australian Customs Service

(ACS), and the Department of Foreign Affairs and Trade (DFAT) in Canberra. I also met regional office staff of the first three agencies who are based in Cairns and have responsibilities for their agencies in the Torres Strait.

3.3.4 I visited the Torres Strait and met with a wide range of staff from DIMA, other Commonwealth agencies located there, Queensland Police and Health Services, the Torres Strait Regional Authority (TSRA), and the Island Coordinating Council. I also visited the outer islands of Boigu, Saibai, Darnley and Yam and met with DIMA, AQIS and ACS staff and members of local island Councils.

3.3.5 I was given access to all available relevant DIMA records. I do note that since the loss of the *Malu Sara* many files from Thursday Island, Brisbane and Canberra have been removed so that information could be provided to the various enquiries being undertaken in relation to that event. Further many records that are in the Thursday Island Office are poorly maintained.

3.3.6 The 1998 Report of the Review of Immigration Border Issues in the Torres Strait and the associated draft Report on Consultations with Stakeholders were a helpful reference.

3.3.7 I record my appreciation of the ready assistance I was provided by all I approached.

3.4 The Torres Strait

3.4.1 In his book, *The Torres Strait, People and History*, John Singe says

The Torres Strait is a beautiful but harsh environment. Nature does not give, and never has given, quarter to those who are unequal to its demands. In these challenging surroundings the Torres Strait Islanders made a home. Over the centuries they created a life style unique in the region, one totally integrated with the sea.

The arrival of other groups more than one hundred years ago forced changes upon the indigenous groups, obliterating some in the process. However the Islanders, though subdued, have clung to their traditions and their languages and were not generally disposed of their land. The newcomers, whether South Sea, Japanese, Malay or European, have all contributed something to the current events since their arrival²

3.4.2 The Torres Strait lies off the far north-eastern tip of Australia and is a 150km wide passage between the Cape York Peninsula and the southwest coast of Papua New Guinea (PNG). From Boigu and Saibai Islands PNG villages are visible across the 3000m of water.

3.4.3 The Strait comprises some 100 islands, reefs and cays of which 18 are inhabited by some 8000 people. Thirteen inhabited islands lie within the Protected Zone and are home to 14 communities. The population of the Australian islands in the

² Singe, J. *The Torres Strait: People and History* Queensland University Press 1979

Protected Zone is some 4000. Thursday Island, which is about 15 km from the 3.4.4 Australian mainland lies outside the Protected Zone. It is the government administrative centre for the Torres Strait and is the location of the DIMA Regional Office. DIMA presence was first established in 1984.

3.5 Treaty Between Australia and PNG Concerning Sovereignty and Maritime Boundaries (The Treaty)

3.5.1 The management of people and traffic in the Torres Strait requires a cooperative arrangement between Australia and PNG, which was formalised in the Treaty between the two countries and entered into force in 1985.

3.5.2 The Treaty sets out the agreed position of Australia and PNG in relation to sovereignty and maritime boundaries in the Torres Strait. Article 11(1) provides that “each party shall continue to permit free movement and the performance of lawful traditional activities in and in the vicinity of the Protected Zone by the traditional inhabitants of the other party”.

3.5.3 Article 16 (1) provides that “each Party shall apply immigration, customs, quarantine and health procedures in such a way as not to prevent or hinder free movement or the performance of traditional activities in and in the vicinity of the Protected Zone by traditional inhabitants of the other party.” The special status of traditional inhabitants is recognised by permitting their (passport and visa) free travel within the Protected Zone for traditional activities.

3.5.4 Traditional inhabitants are persons who live in the Protected Zone and are citizens of either Australia or PNG. These persons maintain traditional customary associations with areas or features in or in the vicinity of the Protected Zone, in relation to their subsistence or livelihood or social, cultural or religious activities.

3.5.5 In 2000 Australia and PNG agreed to a list of 13 PNG villages whose inhabitants have free movement privileges under the Treaty.

3.5.6 At Attachment 1 is a map of the Torres Strait and the Protected Zone. At Attachment 2 is a list of the 13 agreed PNG villages.

3.6 Cooperative Arrangements in the Torres Strait

3.6.1 Cooperation with PNG, with local Torres Strait communities and with other Commonwealth and Queensland Government agencies is a touchstone for the department’s effective operations in the Strait.

3.6.2 The maintenance of effective relationships with PNG officials at both national and local levels is essential to DIMA’s capacity to carry out its functions.

3.6.3 National level liaison with PNG is primarily the responsibility of DFAT and of DIMA National Office. Liaison at the local level bordering the Strait is a key role for Torres Strait based DIMA and other government officials. Because of resource and communication difficulties faced by the PNG government effective liaison is heavily

dependent upon the DIMA regional manager and his staff being able to establish and maintain good personal contact with PNG officials along the Strait coastline. Inadequacies in communication infrastructure in PNG means effective liaison requires face to face contact on an ongoing basis.

3.6.4 DIMA officers from the Torres Strait and those from Queensland State Office responsible for the Torres Strait participate in a range of consultative arrangements established under the Treaty.

3.6.5 Australia also has a 2005 Memorandum of Understanding (MOU) with PNG and with the International Organization for Migration (IOM) on the Care, Protection and Voluntary Return of Certain Irregular Migrants from PNG, a 2003 MOU with PNG in relation to Migration, Refugees, Irregular Migration and People Smuggling and a 1994 MOU with PNG on Illegal People Movements in the Torres Strait.

3.6.6 Close cooperation with local government and local island bodies including the Torres Strait Regional Authority, individual island Councils and with island communities is a fundamental underpinning for effective undertaking of DIMA responsibilities.

3.6.7 The management of DIMA operations in the Torres Strait is facilitated by cooperative arrangements with a range of Commonwealth and Queensland agencies established in the region. Key agencies are;

- Australian Customs Service
- Australian Federal Police
- Australian Quarantine and Inspection Service (with whom DIMIA has an MOU on Cooperative Arrangements signed in 2004)
- Department of Defence
- Department of Foreign Affairs and Trade
- Queensland Fisheries
- Queensland Health Department
- Queensland Police Service

3.7 Context in which the Department Operates in the Torres Strait

3.7.1 The Torres Strait is a remote location encompassing a large area with a small population. Working in such locations often results in personality centric management, with less apparent observance or relevance of formal rules and systems and a culture of informality and ambiguity. Because of this culture there is greater need than usual to monitor and ensure compliance with policies and procedures.

3.7.2 Further, to manage effectively in such an environment senior managers must have a good understanding of the goals of the organisation, of the framework within which it operates and be able to rapidly establish an understanding of the local scene and quickly establish credibility with the key players.

3.7.3 Remoteness can also contribute to an office falling below the radar of both National and State Offices. There has not been an unauthorised boat arrival in the region since 2001 and until the loss of the *Malu Sara* Torres Strait operations have had a lesser priority compared to the many other priorities the department has had over a number of years.

3.7.4 Notwithstanding initiatives such as acquisition of funding for some new office accommodation, replacement of boats, purchase of new equipment and assumption of some broad responsibility for the Torres Strait by Entry Policy and Procedures Branch there is as outlined a need for investment in numbers of areas of the department's operations and for closer attention by senior management. The demands of the Torres Strait require more senior management time than has been available in recent years.

4. NATURE AND EXTENT OF THE WORK CURRENTLY UNDERTAKEN BY DIMA IN THE TORRES STRAIT

4.0.1 The work done in the Torres Strait can most usefully be considered within three spheres ie

- the carriage of its obligations under the Treaty
- border security and intelligence
- other functions of a small departmental regional office

4.0.2 There is obviously some overlap amongst these three areas.

4.0.3 DIMA has five positions in its Thursday Island Office and 27 positions of Movement Monitoring Officers (MMOs) located on islands in the Protected Zone. The Regional Manager reports to a Deputy State Director in the Queensland State Office in Brisbane.

4.1 Treaty Administration

4.1.1 In terms of volume of work this is by far the largest of the three elements of DIMA workload in the Torres Strait.

4.2 Movements of Traditional Inhabitants Under the Treaty

4.2.1 Traditional inhabitants have the right to free movement within the Protected Zone for traditional activities.

4.2.2 Traditional movements are managed by the use of a system of Traditional Inhabitants Passes. This system is an administrative process based on letters between the respective traditional inhabitant leaders or government officials that notifies the leaders on the other side of the border that the bearer(s) of the pass are traditional inhabitants undertaking traditional activities and the proposed duration of the intended visit. Passes are obtained from an authorised official in the inhabitants' home village, the PNG Border Liaison officer in Daru or from their Island Community Council. A copy of a sample pass is at Attachment 3.

4.2.3 In recent years some 96 per cent of movements have been people from the PNG villages visiting Australian island communities with 4 per cent moving in the other direction.

4.2.4 As can be seen from Table 1 below the number of movements has doubled over the past decade and within current arrangements can be expected to increase gradually.

Table 1. Number of Movements of Traditional Inhabitants

Year	No. of Movements *	Year	No. of Movements
1995-96	20 337	2000-01	39,973
1996-97	23 710	2001-02	46 278
1997-98	28 164	2002-03	52 050
1998-99	36 694	2003-04	48 927
1999-00	45 320	2004-05	50 978
		2005 -06 (to 31 Dec)	24 492

Note: *A movement in and a movement out of the Protected Zone are each counted as one movement.

4.2.5 On all islands except Boigu movements are recorded manually on separate arrivals and departures sheets. On Boigu a standalone computer is used to record movements. These sheets are forwarded weekly by the MMOs to the Regional Manager on Thursday Island. See section 5.3 for further comment.

4.2.6 Some 91 per cent of all movements of PNG citizens are to the three islands of Saibai, Boigu and Dauan, the islands in the Protected Zone closest to PNG. A summary of movements by island is at Attachment 4.

4.2.7 The advice I received is that there is not a great deal of dispute about who are traditional inhabitants. A key challenge is where traditional inhabitants seek entry to islands to undertake activities which are not included within the Treaty purposes eg for medical treatment, for commercial activities or other personal reasons.

4.2.8 Decisions on whether to admit visitors are made by the local island Chairpersons. The MMOs implement the decision of the Councils.

4.2.9 Two hundred and thirty six PNG citizens are recorded as being refused entry in 2004-05.

4.2.10 The maximum visit length is 21 days but many visits are for only one day with those visiting Saibai and Boigu principally to shop (ie barter and trade in Treaty terms).

4.2.11 The approved length of visits is for the most part honoured. Some islands have decided that visitors will only be welcome on certain days of the week. Some islands at some times during a year may suspend all visits because of shortages of fresh water. In the same way food and water shortages in PNG villages will drive up the numbers of visitors to the islands.

4.2.12 Local community members are very effective in identifying outsiders.

4.2.13 Section 16 of the *Migration Act 1958* provides that the Minister (or delegate) may declare that it is undesirable that a specified inhabitant of the Protected Zone continue to be permitted to enter or remain in Australia. The issue of a S.16 declaration removes the privileges enjoyed by traditional visitors. Few such

declarations are issued. Between 1995 and January 2006 23 individuals have been the subject of such declarations. (Attachment 4 to MSI 247 is a Section 499 Direction on removal of immigration rights of inhabitants of the Protected Zone.)

4.3 Treaty Liaison and the Treaty Awareness Program

4.3.1 Article 18 of the Treaty deals with “Liaison Arrangements” and places the onus on both parties to consult closely with.....traditional inhabitants.....particularly in relation to any problems which may arise in respect of free movement, traditional activities and the exercise of traditional customary rights as provided for in the Treaty, and convey their views to their government.... and.... keep under review free movement by traditional inhabitants.

4.3.2 DIMA is a central participant in these liaison arrangements.

4.3.3 The Regional Manager participates in annual Traditional Inhabitants and Treaty Liaison meetings. These two fora may place recommendations before the annual Treaty Joint Advisory Council (JAC) meeting. The JAC is the peak Treaty consultative and advisory body of the two countries and is usually attended by a senior DIMA representative from the Queensland State Office accompanied by the Regional Manager. Outcomes of the JAC are reported to the annual Australia/PNG Ministerial Forum.

4.3.4 Treaty Awareness Program visits to PNG are undertaken twice per year (in 2005 in May and August) and involve the Regional Manager, the DFAT representative and PNG officials visiting those PNG villages included in the treaty and regional centres such as Daru. The program includes community meetings at which traditional inhabitants are given the opportunity to raise issues and question officials of both governments. A by-product is the opportunity to visit PNG villages and to develop and maintain contacts with officials all contributing to gaining contemporary information about matters potentially affecting border security.

4.3.5 In addition visits are made, from time to time, to Australian island communities. Visits to these communities are made by the DIMA manager accompanied by representatives of DFAT and from time to time ACS and AQIS. Discussions are held with communities and their leaders.

4.3.6 As the management of the movement of traditional inhabitants is a central feature of the Treaty the DIMA Regional Manager is involved in managing and monitoring the day to day processes of movements of traditional inhabitants and in preparing for and attending the range of liaison and consultative meetings.

4.4 Border Security and Intelligence

4.4.1 A key issue for DIMA is the potential for the illegal movement of people into and through the region. This threat has to be seen in the context that Australian inhabited territory is in sight of inhabited PNG territory and that the Treaty provides for substantial free movement of traditional inhabitant PNG citizens between PNG and Australia.

4.4.2 Risks from illegal movements also come from

- the significant numbers of illegal foreign fishing vessels now entering the waters in and around the Strait
- numbers of small hard to detect high speed craft travelling freely between PNG and the Australian Islands in the Protected Zone
- continuing social and economic problems in PNG, particularly in the provinces adjoining the Torres Strait
- lack of adequate services in Western Province PNG including health, police and customs
- the high number of international vessels which transit the Torres Strait each year

4.4.3 A 1998 paper prepared by David Hallett of the New Zealand and PNG Branch of DFAT says that in 1997 a review was undertaken of all Commonwealth surveillance arrangements in the Torres Strait. This review followed a visit to the Torres Strait by Prime Minister Howard who said he was struck by how potentially vulnerable this part of Australia is to illegal incursion “and how easily people who meant no goodwill towards Australia and were engaged in.....illicit activities (could).... run the gauntlet of the resources that are available.”

4.4.4 The review, led by PM&C, highlighted the high priority the Government attaches to the adequate protection of our boundaries from illegal and illicit activity and concluded, in relevant part

- the Torres Strait is, from a surveillance perspective, the most intensively patrolled of Australia’s maritime zones, and
- while the detected level of illegal cross border activity in the Strait is relatively low, the potential threat is significant.

4.4.5 From my discussions with senior agency officials in Canberra and Cairns and with staff based in the Torres Strait I was advised that the 1997 assessment remains apposite. I do record that I have not had access to national security classified material.

4.5 Intelligence Gathering

4.5.1 Intelligence of relevance to DIMA comes from many sources both within and without the department and DIMA Torres Strait staff are important contributors to the collection and some analysis of information.

4.5.2 MMOs with their very close links to local island communities, links to PNG villagers and with their land and sea patrols of the islands and sea highways are in a position to, and do, report any suspicious activity reported to them or observed by them. They also have close and cooperative arrangements with other agency representatives on their islands eg AQIS and ACS and with the local community police. The information they gather is passed to the Thursday Island office and it contributes to broader intelligence gathering of the DIMA and other agencies. MMOs have 24 hour access to Departmental staff on Thursday Island.

4.5.3 In my discussions with representatives of other Commonwealth and State agencies all reported that the MMOs are an important element in the network of information gathering in the region.

4.5.4 Departmental officers on Thursday Island are also important links in the intelligence net. In particular the access they have to PNG officials and the opportunity this gives to develop and maintain relationships is very valuable. DIMA Regional Manager is a member of the Regional Operations Planning Committee (ROPAC). This body, meeting monthly, is primarily used for Coastwatch planning but is also a valuable forum for sharing of information. There is a Central Intelligence Group (CIG) which meets on Thursday Island and has representation from AFP, ACS and the Queensland Police.

4.6 Border Security

4.6.1 One indicator of the success of current border security arrangements is the very small numbers of third country nationals detained in the Strait crossing from PNG and the absence of evidence that persons are able to enter the mainland from this part of Australia without detection.

Table 2. Number of Third Country Nationals Detained in Torres Strait after Crossing from PNG.

Year	Number
2000-01	4
2001-02	3
2002-03	4
2003-04	0
2004-05	0
2005-06 (to 31 Dec.)	4 – US, East Timorese, Russian and Indonesian (from West Iranian) citizens

4.6.2 Attempts to cross the border from PNG continue but the PNG authorities and the departments' network of contacts in and around "PNG Treaty villages" also continue to alert Australian officials that these people may seek to cross the border unlawfully. Cooperation with PNG officials can prevent many such crossings.

4.6.3 Notwithstanding the very small numbers of third country nationals crossing from PNG there are known to be quite sizable numbers of illegal residents in PNG including the presence of Chinese organised crime. There is no evidence of a flow of these people through the Torres Strait.

4.6.4 The PNG government has been and continues to be engaged by Australia on these issues, as evidenced by the three MOUs between Australia and PNG and continuing liaison and assistance through the Economic Cooperation Program (ECP). However, in all areas there remains a crucial issue of the capacity of the PNG government to deliver on its good intentions.

4.7 Detention and Removal of Persons on Illegal Foreign Fishing Vessels (IFFVs)

4.7.1 There has been significant growth in the numbers of illegal fishers in north Australian waters eg in 2005, 607 boats were intercepted compared to 289 in 2004 and 101 in 2000. In 2005, 2175 people were detained for illegal fishing in Australia's northern waters.

4.7.2 In the Torres Strait 124 illegal foreign fishers arrived in Thursday Island in 2004-05 and in 2005-06 (to 24 January) 145 have arrived.

4.7.3 DIMA staff in the Torres Strait no longer have responsibility for the detention or removal of illegal fishers. These responsibilities are exercised by ACS staff based in the Torres Strait and in their Central Office and by staff from DIMA National Office.

4.7.4 Where illegal fishers are apprehended in the Torres Strait region they are taken to Thursday Island where they are medically examined and their fitness to fly is assessed. All those able to fly are promptly transported by air charter (managed by ACS) to Darwin where they are placed into the DIMA detention facility. For the first seven days of their detention the fishers are held under Australian Fisheries Management Authority (AFMA) detention powers. If they remain in detention beyond this time they are held under DIMA detention powers.

4.7.5 The role of DIMA Thursday Island staff is to promptly enter data on the detainees provided by ACS into departmental systems. Although this is a less onerous task than their previous responsibilities, the volume of persons being apprehended has increased.

4.7.6 In April 2006 AFMA transit accommodation is planned to become available on Horn Island (in the Strait) to hold fishers for short periods.

4.7.7 An IDC is currently considering issues associated with the growth and changes in the character of illegal fishing. Policies and programs to address the significantly increased numbers and the changed behaviour of fishers are being considered.

4.7.8 My discussions have not revealed that there is evidence of illegal fishers in the Strait being involved with people smuggling.

4.8 Unauthorised Boat Arrivals

4.8.1 The arrival of a boat with 43 West Papuans on board on Cape York from West Irian on 18 January 2006 is the first such arrival in the general area since 2001.

4.8.2 I do not have access to assessments about the impact of the 43 on operations in the Torres Strait but that boat does reinforce the potential for entry to both the migration zone and excised regions of Australia through these northern waters.

4.8.3 Current arrangements are that the management of any such arrivals would be undertaken from National Office. The role of Torres Strait staff is to be alert to any intelligence suggesting potential arrivals and ensure this information is immediately made available to Canberra. Local staff may be called upon to contribute to the interviewing of any unauthorised arrivals to determine whether any protection issues are raised.

4.9 Entry Arrangements for PNG Citizens Seeking Medical Treatment

4.9.1 The management of such arrangements is an important task of MMOs and staff on Thursday Island

4.9.2 PNG citizens living in the Western Province of PNG are, with the prior approval of Queensland Health, eligible for medical treatment in Queensland. They must also possess necessary travel documents and meet public interest criteria. Such persons receive a medical treatment visa (class 675) issued by the High Commission in Port Moresby. Staff in the Torres Strait have has no involvement with such cases.

4.9.3 PNG citizens who travel to the Protected Zone (and beyond into the migration zone) for medical treatment are not covered by the free movement provisions of the Treaty as medical treatment is not a traditional activity. They therefore need to hold a visa to be able to enter and remain lawfully in Australia for treatment including entering and remaining within the Protected Zone.

4.9.4 The department recognises that emergency health care, is and will continue to be, provided to PNG citizens on Australian islands in the Protected Zone. Such care will include follow up treatment where return visits to an island clinic are considered necessary by Queensland Health medical staff. Medivacs for hospitalisation/specialist consultation to Thursday Island and further south occur where a Queensland Health officer decides that it is necessary. DIMA monitors the movements of patients and their escorts but does not hinder such visits.

4.9.5 The scale of medivacs and escalation in numbers is illustrated by Tables 4 and 5

Table 4. Numbers of Medivacs Recorded

Community	2005-06 (to 31 January)	2004-05	2003-04
Boigu	33	62	47
Darnley		2	2
Kubin			1
Murray	2		3
Saibai	51	65	52
St Pauls		1	
Yam	1	5	
Yorke	1	4	1
Not Recorded	4	2	1
TOTALS	92	141	107

Table 5. “In Patient and out Patient services, medical evacuations and occasions of service to in (sic) island clinics” - Queensland Health data provided to 2005 JAC

	2002-03	2003-04	2004-05
Number of occasions of service	1775	2036	2299
Attendance at specialist clinics	NA	4	5
Hospital admissions	NA	214	258
Occupied bed days	NA	1414	2574

4.9.6 Prior to July 2005 the department granted Border Visas to PNG citizens Strait seeking medical treatment on entry to Australia through the Torres Strait. However July 2005 amendments to the Regulations made under the *Migration Act* to excise islands in the Strait has had the effect that persons arriving from a place outside Australia without a visa can no longer apply for or be granted a visa while they remain in Australia.

4.9.7 Since July 2005 officers have taken a flexible and commonsense approach and facilitated the entry of patients and escorts but such people are in Australia unlawfully.

4.9.8 The issue of the lawfulness of the residence of PNG citizens (both patients and escorts) needs to be resolved as a priority and I am aware that considerable progress has been made towards a solution but the matter must be finalised.

4.9.9 Once the legislative framework is clarified the department will need to work with Queensland Health and ACS to put in place necessary practical arrangements for monitoring and recording of patients and escorts into and out of Australia.

4.9.10 The wider issue of medical treatment of PNG citizens seeking access to Australia (other than on a class 675 medical treatment visa) has been unresolved for many years and although it is not a DIMA responsibility the department should do all it can to encourage Commonwealth and Queensland health authorities to improve the current arrangements. Further comment is at section 5.11

Recommendation

4.9.11 Priority be given to necessary legislative amendments to ensure that PNG citizens entering Australia through the excised islands of the Torres Strait as medical patients (and their escorts) enter and remain lawfully.

4.10 “Traditional” DIMA Regional Office Functions Performed in the Torres Strait

4.10.1 The Thursday Island Office, as a very small DIMA regional office, carries out some of the “traditional” functions of other departmental State/regional offices.

4.10.2 The Thursday Island office provides the usual client service function. However the numbers of clients are few and much of the processing of applications lodged in the Strait is undertaken by the Cairns or Brisbane Offices or other centralised processing centres.

4.10.3 I am constrained in evidencing the limited role played in areas such as citizenship, visa extension, and compliance functions by the absence of data. However experienced staff have confirmed that apart from citizenship activities very little other application processing is undertaken.

4.10.4 Applications with any complexity are transferred to other departmental offices (particularly Cairns and Brisbane). This makes sense as the very few staff have little opportunity to develop the necessary knowledge to process the general run of applications.

4.10.5 The Thursday Island Office performs the usual functions of Collector of Public Money (CPM) of maintaining its own registry and has access to departmental IT systems.

4.10.6 The task of Thursday Island in administering the MMO network on 13 remote islands is not to be underestimated and significant resources are devoted to this. There is scope for a re-examination of some of the arrangements for servicing the MMOs eg why do separate Purchase Orders have to be issued every time fuel is required for boats. Why not a standing Order with appropriate acquittal arrangements?

5. ISSUES OF PARTICULAR INTEREST

5.1 DIMA Boats

5.1.1 Background

5.1.1.1 The 1998 departmental Review noted the comments of MMOs and island Chairpersons of the need to review resources available to MMOs including the provision of “motorised dinghies”. The Review reached no conclusions on this issue.

5.1.1.2 Departmental files record that in the 1999-00 Budget funds were allocated “to purchase dinghies for the MMOs to enable them to respond by boat to incidents or reports in their area of responsibility without having to rely on their own resources or on the resources that may be available from their local council.” Prior to this a DIMA dinghy was based on Yam Island and other MMOs used their own or local Council boats to investigate incidents near their islands.

5.1.1.3 A proposal to replace the original boats was approved as part of the 2004-05 budget. The proposal stated, inter alia, the

“vessels...undertake regular weekly patrols of the coastline of their home islands and uninhabited islands, cays and reef (sic) in a nominated area. The patrols visit remote locations and campsites frequented by PNG nationals often involved in unauthorised activities within the Torres Strait Protected Zone. Information obtained during such visits is also of interest to other stakeholders such as Quarantine, Police and Customs.

5.1.1.4 The vessels also provide an independent mode of transport to undertake

- compliance and field visits to surrounding islands
- identification of suspect vessels including foreign fishing vessels
- emergency tasking such as local search and rescues, and
- assistance to other agencies.”

5.1.1.5 The Department acquired six Immigration Response Vessels (IRVs) in 2005 which, prior to the loss of the *Malu Sara* were located on Badu, Dauan, Mabuig, Mer, Yam and Yorke. An old dinghy acquired in 1999 was retained on Warreber. It has recently been removed from the Island. The six new boats were commissioned in August 2005. Following the loss of the *Malu Sara* all five new boats have been withdrawn from service.

5.1.1.6 There is also a boat on Thursday Island (one of the boats purchased in 1999). It is available for use by the Regional Manager and use in and around Thursday Island.

5.1.1.7 I have been unable to locate a detailed business case for the acquisition of the eight boats in 1999 although I was advised that such an analysis was undertaken.

AQIS and ACS also have small boats on a number of the outer islands. Table 6 below identifies the locations of boats of the three agencies. Between them the agencies have boats on 10 of the 13 inhabited outer islands.

Table 6. Locations of DIMA, AQIS and ACS Boats on the Outer Islands

Island	DIMA	AQIS	ACS
Badu	X	X	
Boigu		X	
Coconut			X
Darnley		X	X
Dauan	X		
Mabuiag	X		X
Mer	X		
Saibai		X	X
Yam	X		
Yorke	X		

Notes:

X means a boat located on the Island.

A DIMA boat acquired in 1999 was located on Warraber has been removed. It was not proposed for replacement in 2005.

All three agencies and DFAT have a boat(s) on Thursday Island.

5.1.1.8 The DIMA vessels are under the primary control of the MMO skippers. The skippers are only authorised to take their boats out with the prior approval of the DIMA Regional Manager (or his/her nominee).

5.1.1.9 In brief the DIMA vessels provide an independent mode of transport to undertake

- patrolling – both loiter and point to point
- compliance and field visits
- identification of suspect vessels including foreign fishing vessels
- emergency tasking such as local search and rescue
- assistance, from time to time, to other agencies eg help community elders and researchers from the Native Title Office reach and identify remote locations of cultural significance and AFMA to transport staff undertaking fisheries inspections

5.1.1.10 The boats are stored in the open on the islands eg at the homes of skippers, in Council premises and because of their size and the steepness of many of the launching ramps are launched using AQIS or Council four wheel drive vehicles.

5.1.1.11 It is important to note that the purposes above do not require having the boats in the water every day but rather, unless there is an incident requiring early investigation, a weekly/periodic patrol.

5.1.1.12 AQIS with its four smaller boats uses these only for surveillance around the island (on which located) in smooth water limits ie 1-1.5nm of the island. ACS with

its boats more comparable in capability to DIMA boats uses its craft to meet broadly similar needs to DIMA.

5.1.2 Does DIMA Need Boats to Carry Out Its Role?

5.1.2.1 Movement of people and goods around the Torres Strait is primarily by water.

5.1.2.2 If the department needs to have more than a static presence on the inhabited islands it needs access to the sea. What is the need and what are the options for achieving that access?

5.1.3 DIMA's Need for Access to the Sea

(a) For Strictly Departmental Purposes

5.1.3.1 Above I noted the current use made of DIMA boats. The first three of these are strictly departmental purposes for having boats

5.1.3.2 The 1999 acquisition seems to have developed from the increased priority directed by all relevant government agencies to the Torres Strait following the 1997 PM &C led review of risks in the region, from growth in local community concerns about suspected illegal movements, the need to move away from using the boats of officers and local Councils to investigate suspicious activities and from the comments in the 1998 Review.

5.1.3.3 The 2005 replacement of the 1999 boats occurred because of programmed replacement of boats which had reached the end of their useful life, for the department's operational purposes. As far as I can ascertain there was no detailed re-assessment of need, island by island, but rather a replacement of all old boats apart from the one retained on Warraber for a time.

5.1.3.4 In my view the department needs to have access to boats to

- enable it to investigate reports of suspected illegal activities on islands and waters surrounding the 13 inhabited islands in the Protected Zone
- undertake patrols of remote campsites on the main islands not readily accessible by land and locations on nearby uninhabited islands which unauthorised persons may visit
- undertake patrols of the major sea channels/highways in the vicinity of the islands including, as a deterrent to unauthorised activity

5.1.3.5 To not undertake such activities would expose the department to justified criticism that it was failing to carry out its responsibilities to local communities and to broader national interests.

5.1.3.6 What is now required is an assessment of how the Strait can be most effectively covered to meet these needs. With the current disposition of DIMA boats and their requirement not to travel more than 15 nautical miles from the coast or in waters defined as smooth or partially smooth water, they are able to access a

substantial part of the Strait. Is this what the department requires in the contemporary and reasonably foreseen environment?

5.1.3.7 If the existing boats are not returned to service, there is an opportunity to undertake a “green fields” assessment of the department’s business needs for all the outer islands.

5.1.3.8 It is beyond my Terms of Reference to determine the needs for each of the outer islands and Thursday Island but this must be done and documented. I doubt that the current disposition exactly meets contemporary needs.

5.1.3.9 However, let me summarise some of the evidence which must be taken into account and provide some observations which flow from my Review.

(i) Past Use Made of DIMA Boats

5.1.3.10 An examination of past use is hindered by the serious deficiencies in the records kept of boat useage and the content of the available records. There are large gaps in the file records and although I was advised that there are many loose papers held in the office which will include some boat reports it would be a major task to locate these reports.

5.1.3.11 A written report is required on each patrol. However these reports are often short on relevant detail. The reports are narratives and the authors are hindered in preparing their reports by lack of skills in writing. See 5.10.4 for comment about the content of future reporting on boat useage.

5.1.3.12 Notwithstanding the serious data deficiencies an analysis has been made of the data available on boat useage for the six islands on which boats were located at October 2005.

Table 7 Recorded Boat Usage on six Outer Islands

	Badu	Dauan	Yam	Yorke	Mer	Mabuiag
Period	19/202- 15/8/05	8/603- 18/4/05	8/6/03- 16/12/04	18/7/03- 25/02/05	29/8/00- 1/3/05	13/11/00- 20/105
Response to Incidents	1	2	2	0	0	7
Patrols	55	27	38	24	31	11
Search and Rescue	5	0	4	2	0	1
Transport for other agencies	10	0	4	0	0	0
Unstated Purpose	1	0	0	0	0	0
Total Trips	72	29	48	26	31	19
Average Frequency Trip Undertaken	1 trip per 2.33 weeks	1 trip per 3 weeks	1 trip per 1.5 weeks	1 trip per 2.92 weeks	1 trip per 7.1 weeks	1 trip per 10.53 weeks

Notes

Sources – The sources used were written reports of boat skippers on trips undertaken, written authorisations for boat trips by the Thursday Island Regional Manager and records of fuel usage.

Period – Although these are the periods covered by the available records it must not be assumed that all records for a given period are available.

Response to Incidents – Reflects a specific tasking from Thursday Island to respond to a reported incident/suspicious activity eg a Coastwatch aircraft report requiring further investigation.

Patrols – Regular patrols undertaken.

Search and Rescues – Search and rescues undertaken at the specific request of relevant authorities eg Queensland Police.

Transport for other Agencies – Trips to enable staff of other Commonwealth/State agencies to access remote locations.

Average Frequency – A calculation of frequency based only on the data available. Advice from officers (see below) is that MMOs on all islands except Mer undertake patrols on about a weekly basis, excluding times when boats are away from the islands for maintenance, skippers are on leave and weather prevents boats going to sea.

5.1.3.13 In discussing the above pattern of useage staff from Thursday Island made the following comments

- Despite the absence of records MMOs on Badu, Dauan, Yam and Yorke have been undertaking patrols on a generally weekly basis.
- The MMO skipper on Mabuiag also undertook weekly patrols but he and the ACS officer frequently alternated in the use of the DIMA and ACS boats located on the island. It was noted that the DIMA boat on Mabuiag was originally located on Boigu but was moved to Mabuiag because the Boigu MMOs were all female and found the boat too physically demanding to manage.
- The boat on Mer undertook less frequent patrols because it was located in an area of lesser threat of illegal movements and the number of traditional inhabitant movements to/from the island is very small.
- Although no figures are available there have been numbers of instances where the DIMA boats have been tasked to investigate sightings made by Coastwatch aircraft
- In the current absence of a boat on Yam, following a report from a fixed wing Coastwatch aircraft of 8 people camping on Cap islet, the response was to despatch a large helicopter from Thursday Island. By the time it arrived the people had left after raiding all the turtle nests. If the Yam boat had been available the cost effective and timely response would have been to despatch the DIMA boat from Yam.
- It cannot be stressed too heavily the value of the local knowledge possessed by the Torres Strait islanders about where people seeking to avoid location are likely to hide and of the routes they are likely to travel. Modern technology (aircraft/radar) can do a great deal but there is still, particularly in the unique environment of the Torres Strait, an important role for local knowledge and expertise.
- It was an MMO from Mabuiag who made the first sighting of the unauthorised boat the Telopea in 1999
- A major outcome of the activities of the Dauan boat has been the identification of illegal PNG fishers in the Protected Zone.
- Comment from local island community leaders is that traditional visitors and other Papua New Guineans are very aware that patrols are undertaken and that this does reduce illegal activity in the area the boats patrol.

(ii) Contemporary and Future Environment

5.1.3.14 In assessing the department's needs guidance must come from the past but also from an assessment of the contemporary and future environment.

5.1.3.15 The following are relevant, but not an exhaustive list of considerations. I again record that I do not have access to national security classified information.

5.1.3.16 Life in the Torres Strait is totally integrated with the sea. People moving about the Torres Strait will do it largely by water and if they are moving people illegally around the Strait it will mainly be done by water.

5.1.3.17 Notwithstanding significant enhancements to surveillance from helicopters and fixed wing planes patrolling the area and the development of new over the horizon radar facilities, there will remain a need for access to the sea to investigate reports of suspicious activity and to provide a more detailed surveillance that can only be provided by boat.

5.1.3.18 The Navy and ACS have large vessels patrolling, and based in, the Strait to investigate reports of activity of concern. ACS also has small vessels (5.9m) on four outer islands to enable them to respond to incident reports and undertake local patrols. An integral element of the strategy of each of these agencies is a capacity, as appropriate, to observe, to intercept, to apprehend and to be a deterrent to illegal activity. The first and last mentioned are most relevant to DIMA's functions in the Torres Strait.

5.1.3.19 As noted earlier (see 4.4.3) the last major government wide assessment of threats in and through the Torres Strait was made in 1997 and its conclusions were that despite the Strait being the most heavily surveilled of Australia's maritime zones the potential threat remained significant. All those to whom I spoke about the 1997 assessment considered it remained valid today. In that context the department should take a precautionary approach and retain a capacity to monitor threats of illegal people movements. This includes an ability to respond, using boats, to specific reports of suspicious activity and frequent surveillance of identified risk areas.

5.1.3.20 Data on the movement of third country nationals from PNG evidences that the movement of such people has in the last five years been very small but there are known to be large numbers of illegal third country nationals who if they perceived a weakness in Australia's border protection arrangements may decide to move through the Strait into the mainland.

5.1.3.21 The recent arrival of 43 Papuans on Cape York from West Irian, although not traversing the Strait, illustrates how quickly potential threats can arise and of the current extent of potential threats in the region.

5.1.3.22 A major current concern in northern Australian waters, including the Strait, is the dramatic growth in illegal fishers particularly from Indonesia. One of the tasks which DIMA boats have performed in the past and could be expected to continue to contribute to in the future is to be able to assist in the location of such boats in the first instance and to provide a quick local response by being able to confirm or otherwise reports of the presence of such vessels.

(iii) Observations on which Islands DIMA has a Specific Requirement to have Access to Boats.

5.1.3.23 These are some observations of mine which may assist the department as it undertakes the thorough assessment of need which should be undertaken.

5.1.3.24 *Boigu* – Principal Reason -to enable access to the back of the island where there are campsites and locations used by unauthorised visitors. These sites are not accessible by land year around. AQIS has boat on Boigu which has the capability to meet DIMA needs.

5.1.3.25 *Saibai* – Principal Reason – as for Boigu. Both ACS and AQIS have boats on Saibai. The AQIS boat has the relevant capability.

5.1.3.26 *Dauan* - Principal Reason- similar to Bogu and Saibai ie for close inshore patrols. Could this be undertaken by use of the ACS boat located on nearby Saibai ?

5.1.3.27 *Yam* – Principal Reason - requires a boat with the capability to undertake inter island patrols along the Warrior Reef and the Tudu and Gabba Islands. Neither ACS nor AQIS have boats on Yam or on nearby islands.

5.1.3.28 *Mabuiag*- Principal Reason- requires boat to patrol the reefs to the north of Mabuiag and the main sea channels south of Saibai, Boigu and Dauan. ACS has a boat with the appropriate capability on Mabuiag.

5.1.3.29 *Badu and Moa* - Principal Reason- Both have remote locations on which illegal visitors stay and potentially use as transit stops en route to Australia and therefore require regular visits. I am not clear whether a boat would require the inshore capability of a small AQIS boat or the larger inter island capacity (eg 6m boat). This would need further investigation. AQIS have a small boat on Badu.

5.1.3.30 *Yorke, Mer and Darnley* – All three islands are strategically located on the major routes south on the eastern side of the Strait. DIMA has boats on Yorke, and Mer and ACS and AQIS on Darnley. What needs to be investigated is whether some rationalisation would be practicable eg could one boat (with inter island capability not just the inshore capability of the AQIS boats) cover the 3 islands and their surrounding waterways, islands, reefs and cays or are two or three required and where would they be best placed?

5.1.3.30 In developing a strategy for effective coverage of the eastern islands it will be important to seek expert, including local Torres Strait, advice beyond the assessments of DIMA, ACS and AQIS.

5.1.3.31 *Warreber and Coconut*- These islands are located in the south of the Protected Zone. DIMA has found that the continued presence of a boat on Warreber could not be justified and has withdrawn the boat. There would be value in discussing with ACS whether they see Coconut as a location where they have a continuing need for a boat or whether it could be used to greater effect by being redeployed to one of the eastern islands.

(b) Participation in Search and Rescue

5.1.3.32 The second current use of DIMA boats is to participate in search and rescue. The use of the boats for this task is valued by the Queensland Police who coordinate such activities and by local communities. The ACS boats are also tasked to participate in search and rescue but not the AQIS boats which are smaller and of lesser capability.

5.1.3.33 Islands do not have a relevant State Emergency Service (SES) marine capability nor are there generally other boats on the Islands with necessary capabilities (size, qualified crew, well equipped particularly with communications equipment) and able to be contacted readily to respond to emergencies.

5.1.3.34 Does the department see it as a proper function for its boats to participate in search and rescue?

5.1.3.35 A context for considering an answer to this must include the limited resources available in the Strait, the large areas to be covered and therefore the time for centrally held resources i.e. generally from Thursday Island to reach a boat in distress. If there is not another more appropriate craft in the vicinity the department must expect that if it has a boat with appropriate capability (including crew and equipment capability) that boat will and should be called upon to assist. Use for search and rescue does bring with it additional risks which must be planned for and managed.

(c) Use of Boats for the Purposes of Other Agencies

5.1.3.36 The third use made of boats is to provide a service for other agencies which may need transport across water to visit remote locations eg the use by Native Title Tribunal staff, Queensland Department of Primary Industry Inspectors and AFMA. Again these uses are not part of the department's functions but the relevant consideration is that of very limited local resources and the best use of these from a whole of government perspective. If the department has the resource available it must anticipate being able to respond positively to reasonable requests to use it.

(d) Other Reasons

5.1.3.37 The presence of DIMA boats on the outer islands is seen by local communities as an important contributor to and symbol of the department's effective management of the flows of people. Should the department decide not to have any boats on the islands (without a cast iron case and satisfactory alternatives in place) it will have a major challenge in persuading local populations that their protection remains a priority. I would anticipate strong private and public criticism of the department, particularly from the Torres Strait.

5.1.3.38 Should some relocation of some boats to other islands or some new arrangements for sharing the use of AQIS or ACS assets be decided upon this would need to be fully explained to communities. I suspect they would monitor closely, and

for some time, that patrols/incident responses for DIMA purposes were in fact being undertaken.

5.1.3.39 Finally the possession of the current six DIMA vessels is a source of personal pride to the relevant MMO skippers. If they are not to be provided with boats in the future there will be a need to manage a loss of personal morale.

Recommendation

5.1.3.40 The department should undertake a thorough review of the business need for the location of a boat on each of the inhabited outer islands.

5.1.4 How Should the Department Acquire Access to the Sea?

5.1.4.1 Before boats were acquired in 1999 use was made of personal dinghies of MMOs and of equipment which local Councils may have or have access to. This is not an acceptable avenue for the department to pursue.

5.1.4.2 Table 6 shows that on 10 of the 13 outer islands there is based a boat operated by one of the three relevant Commonwealth agencies. My understanding is that the current disposition is a reflection of history and the context in which each agency acquired their boats and of the differing purposes AQIS has for its boats compared with that of ACS and DIMA.

5.1.4.3 It should be noted that there is some on the ground sharing of boats. On Mabuia where both DIMA and ACS have boats the MMO and his ACS counterpart frequently alternated in the use of each others boats to undertake patrols.

5.1.4.4 Discussions with ACS indicated a preparedness to consider possible DIMA use of ACS boats in locations where ACS has a vessel but DIMA does not. Quite reasonably ACS saw any such arrangements as being encompassed within formal agreements between agencies.

5.1.4.5 I am not aware of any common use of AQIS boats by DIMA but AQIS were open to considering proposals DIMA might have. The MOU between the two organisations currently provides for the sharing the duties of staff, of vehicles and office resources but not boats. Presumably because of the differing capability requirements for each agency at the time the MOU was entered into sharing of boats was not an issue.

5.1.4.6 Working on the assumption that the existing six DIMA boats will not be returned to service (but that boats are still required at some of the same six locations) the first option to explore with ACS arrangements for a sharing of boat resources on Mabuia.

5.1.4.7 However, whatever cooperative arrangements are able to be made between DIMA and each of AQIS and ACS I would expect that there will be a small number of locations where DIMA will be the only agency requiring a boat. How should that need be met at such locations?

5.1.4.8 DIMA, could as it currently does, acquire and manage its own marine resources.

5.1.4.9 Alternatively, as DIMA has no requirement for a marine capability in any location other than the Torres Strait, rather than set itself up to acquire and manage such resources it could seek to “outsource” the provision of such craft.

5.1.4.10 In considering such outsourcing it is highly unlikely that any private sector organisation would see a proposition of providing boats and equipment in the Torres Strait as commercially attractive.

5.1.4.11 ACS is a Commonwealth agency which operates a fleet of boats nationally and has boats in the Strait outer islands. Would they be prepared to provide the boats and necessary equipment for which DIMA could provide crew? My enquiries suggest not, but this could be explored further when DIMA has established its needs.

5.1.4.12 A further option could be for the State Emergency Service (SES) to be provided with boats on islands which could be used by DIMA staff. Unless the Commonwealth was prepared to fund such a resource it would presumably have to be funded by the Queensland government. At issue would be whether the Commonwealth would within its duty of care to its staff be prepared to regularly use such boats. Maintenance of boats and equipment in these remote regions is difficult and costly and may well not meet departmental requirements.

5.1.4.13 On evidence available, unless there is a will to drive a whole of government approach to the provision of boats for use by Commonwealth agencies in the Torres Strait (excluding Defence) each agency is going to have to make its own provision with the exception that every effort should be made (and I found a readiness to consider this approach) to share boats on those outer islands where each has staff and need for a similar boat capability. I again draw attention to the fact that none of AQIS, ACS and DIMA have their boats in the water most of the time.

Recommendations

5.1.4.14 Where a DIMA need for boat is established on an island and ACS or AQIS have a vessel located on that island a first step would be to consider whether either of those agencies boats have the capabilities and would be reasonably available to meet DIMA’s requirements. Any such arrangements would need to be appropriately formalised.

5.1.4.15 Where the review of business needs establishes that a boat is required on an island and where no other agency has a suitable vessel DIMA should acquire its own boat.

5.1.5 Qualifications of Crew

5.1.5.1 The qualifications of crew are another central element of the mix and this is a current live issue.

5.1.5.2 The Australian Maritime Safety Authority (AMSA) on 22 December 2005 advised of a review to Marine Orders Part 62. Copy of advice at Attachment 8. If the Orders are promulgated as foreshadowed one result would be that boats of the type DIMA has (and other Commonwealth agencies have in the Torres Strait and elsewhere) would require the person in charge to hold a Coxswain's certificate. Only one of DIMA's MMOs is so qualified. Other skippers have Queensland Recreational Marine Licences.

5.1.5.3 To obtain and retain a Coxswain's certificate is no small task particularly in meeting minimum sea going requirements.

5.1.5.4 ACS has in mind that they will need to sponsor training programs for their staff and indicated that these programs would be open to DIMA staff. DIMA should pursue this possibility.

5.1.5.5 Discussions between ACS and AQIS and ASMA on the implications of the changed requirements are on going, particularly as to how the changes would apply to small vessels and the timeframe for compliance. DIMA should keep in close touch with these discussions as the final content of the Marine Order is going to be an ingredient of decisions on the nature of the DIMA fleet and how it is managed. However the direction is clear, both in terms of upgrading of qualifications and enhanced inspection to ensure compliance with the currency of qualifications.

5.1.5.6 In the light of AMSA's new requirements for the qualifications of persons in charge of Commonwealth vessels DIMA will need to put in place training arrangements to enable staff to attain and retain necessary qualifications. There could be opportunities for the department to take advantage of new training opportunities being considered by other Commonwealth agencies.

5.1.6 DIMA Acquisition and Management of Boats

5.1.6.1 In acquiring and managing boats AQIS has established a national process under the purview of a Vessels Coordinating and Advisory Committee. This process is a model which DIMA should consider for itself as it brings national and senior manager oversight, participation by AMSA and specialised input on occupational health and safety issues. Proper emphasis is placed on rigorous assessment of the business case for the acquisition of boats and in providing a strategic framework for the organisation's fleet management. Background material on AQIS arrangements has been left with departmental officers.

5.1.6.2 Management of boats involves the need, at acceptable intervals, to report on the currency of crew qualifications and to oversight the maintenance of boats and equipment. In both ACS and AQIS this is currently a responsibility of regional management.

5.1.6.3 However as a result of changed AMSA requirements, ACS is considering establishing a national focus for compliance and of particular relevance is their thinking of having a qualified officer on Thursday Island undertake the regular "safety" inspections of their vessels and crew in the Torres Strait. Should this

proposal be implemented ACS expressed a willingness to consider entering into an arrangement to undertake this task on behalf of DIMA in the Torres Strait. Such an option would be attractive and remove the need for DIMA to have on the ground expertise. Reporting on outcomes would need to come back to a central point in DIMA.

5.1.6.4 The department, in accord with new AMSA direction, will be required to review operating procedures, reporting procedures for vessel movements and that vessels are being operated within permissible limits. These requirements will have to be picked up as part of the department's overall boat management process. Again I feel confident that ACS and AQIS will be prepared to share their expertise in developing procedures to meet these requirements.

Recommendations

5.1.6.5 The department put in place a central process to manage the acquisition and operation of all departmental vessels. This process to include necessary expertise from outside DIMA.

5.1.6.6 The current standard operating procedures be reviewed for the operation of boats in the Torres Strait. A person with appropriate expertise and with experience of the local environment should be engaged to review the procedures. The procedures will need to take account of the outcomes of inquiries, still current, into the loss of the *Malu Sara* and of new AMSA requirements.

5.1.7 Boat Equipment

5.1.7.1 Decisions about equipment required to be provided in boats must also take account of the outcomes of reviews by the Australian Transport Safety Board (ATSB) and other expert bodies into the loss of the *Malu Sara* and the recent AMSA requirements.

5.1.7.2 The AMSA advice includes new requirements for all Commonwealth vessels to carry 406 MHz Emergency Position Indicating Radio Beacons (EPIRBs) and marine VHF radio. Where VHF coverage is inadequate, satellite communications will be required (Iridium or Satcom-C). Adequate navigational equipment for the area of operation will also be required (eg GPS, chart plotter etc).

5.1.7.2 The department will need to consider whether there are other requirements it may have. For example current standard operating procedures do not specify that all crew have demonstrated they can swim; are personal EPIRBs a facility which should be standard?

5.1.7.3 A crucial issue is to ensure that equipment is operating as it should and that necessary training is undertaken, led by qualified and experienced personnel to ensure appropriate standards of knowledge in the use of the equipment are reached and maintained. Still further, compliance with instructions/procedures is an issue. There must be periodic checking that equipment and systems are in good order. Here again the possibility of ACS actively checking compliance, on the department's behalf, is *prima facie* attractive.

Recommendation

5.1.7.4 The department put in place a regime for ensuring that requirements that boats and equipment are in good working order and that crew qualifications are current. Opportunities may exist to work closely with other Commonwealth agencies, with necessary expertise, to ensure necessary compliance with requirements.

5.2 Movement Monitoring Officers (MMOs)

5.2.0.1 DIMA established the movement monitoring system in 1988 when surveillance of the Torres Strait became increasingly important in the context of allegations about illegal activity.

5.2.0.2 DIMA has 27 positions of MMO. They are located on each of the 13 islands in the Protected Zone.

5.2.0.3 These officers are responsible to MMO Team Leaders (APS 4s) on Thursday Island.

5.2.0.4 The MMOs are people all drawn from the local communities in which they work. From 1 July 2004 they became non-ongoing staff at the APS1 and 2 levels. All MMOs receive an 18.5 per cent salary loading in lieu of various forms of leave and several allowances. As non-ongoing employees they have access to conditions and entitlements provided under the DIMA Certified Agreement. Prior to July 2004 the MMOs had been engaged as contractors on three-year contracts.

5.2.0.5 MMOs work irregular hours. MMOs on each island have been allocated a set number of hours.

5.2.1 Role and Functions

5.2.1.1 The MMOs have the capacity to perform their roles effectively because of their great access to local communities, the information the communities have and can obtain and the MMO's understanding of customary practices.

5.2.1.2 The integration of MMOs within their communities brings with it pressures from friend and family for "special treatment". These pressures are ones which require the MMOs to have effective support and management (and of course training) from professional staff in the Thursday Island office.

5.2.1.3 It is important to emphasise that the role of MMOs is that of "monitoring" officers. Decisions, about whether visitors may enter and stay on an island, is the prerogative of the local elected Council and they do exercise that authority. MMOs before admitting visitors seek the approval of the Council both in cases where prior advice for a visit has been received and approval given and in those cases where prior advice is not required. Individual Councils have developed different processes in relation to the requirement for prior advices.

5.2.1.4 In a real sense island communities see MMOs as working to protect them from unwanted visitors and the MMOs see their task as protecting their communities and in doing so contributing to a broader national interest.

5.2.1.5 Traditional visitors do not carry identity documents. It is the capacity of the MMOs to personally know the identity of visitors, or be able to establish that the person is or is not known to others in island communities, upon which the department relies.

5.2.1.6 In addition to admitting visitors, MMOs follow up visitors to check they are still staying with families which “sponsored” them, that visitors are aware of when they need to depart and the MMOs supervise visitor departures. For the most part visitors do depart when required as their sponsors, who generally have limited resources, have to carry the burden of feeding and caring for them whilst they are on the island.

5.2.1.7 However, small numbers of visitors do not leave when required and it is the MMOs’ responsibility to ensure that they do so. Occasionally this has required staff from Thursday Island to visit to persuade people to leave but that has not been a common occurrence. No one could recall an occasion when a visitor had to be forcibly returned to PNG.

5.2.1.8 Some visitors are rejected. Three hundred and thirty three persons are recorded as rejected in 2003-04, 127 in 2004-05 and 236 in 2005-06 (to 31 Dec).

5.2.1.9 As discussed elsewhere the MMOs undertake both land patrols of their islands where this is practicable and on those islands on which a boat is located MMOs also undertake water patrols.

5.2.1.10 The MMOs under the MOU with AQIS provide for MMOs to undertake Quarantine Officer duties in the absence of the Quarantine Officers. The reverse also occurs. This is a practical arrangement and needs to be reflected in the MMO functional statement.

5.2.1.11 MMOs also play a valuable role in contributing to overall border security and intelligence and this contribution is supported by other agency representatives including the AFP. The AFP said that although the organisation does not task MMOs they often ask questions of them. The MMOs are the best local source the department has of gathering information about the presence of non local people in or around PNG villages in coastal south west Western province. The MMOs say that visitors and local communities who are in regular contact with friends and relatives in PNG tell the MMOs of any unusual people or happenings.

5.2.1.12. Both AFP and ACS commented on the real value of the MMOs movement records for their law enforcement activities. ACS did suggest that they do not have the same ease of access to manually held records as to electronically held records. The background to this needs to be explored.

5.2.1.13 The MMO role is one which has evolved in response to changes in the environment within which they operate. The timing of the work that MMOs

undertake is in part unpredictable and intermittent. It requires attendance/call out on an irregular basis to monitor the entry and departure of visitors and in recent years has included monitoring the departure of planes flying south and checking the identity of passengers.

5.2.1.14 I was impressed with the concept of MMOs as being an appropriate response to the current risks and to the context of the Torres Strait Protected Zone. As indicated elsewhere the department needs to significantly enhance the provision of accommodation and equipment they have available to them and generally work to further professionalise their operations

5.2.1.15 The current statement of the MMOs role and functions (Attachment 5) contains much that is still relevant but will need to be updated in the light of decisions flowing from this Review.

Recommendation

5.2.1.16 That the statement of roles and functions of MMOs be updated in the light of decisions made following consideration of this Report.

5.2.2 Delegations Under the Migration Act

5.2.2.1 In 2000 eight of the MMOs were delegated certain powers under the *Migration Act 1958*.

5.2.2.2 MMOs who are classified as APS2s hold the following delegations

- S.18 Power to obtain information and documents about unlawful non citizens
- S.188 Lawful non-citizen to give evidence of being so
- S.189 Detention of unlawful non citizens
- S.192 Detention of visa holders whose visas liable to cancellation
- S.225 Production of identity documents and mustering of crew
- S.249 Certain persons may be prevented from entering or landing
- S.250 Detention of suspected offenders
- S.251 Powers of entry and search
- S.257 Persons may be required to answer questions.

5.2.2.3 As far as I could ascertain these have been rarely exercised and both MMOs and their managers expressed a need for enhanced training on the use of these delegations. Further, there is a need for close and frequent monitoring of compliance to ensure that delegations are being properly exercised.

5.2.3 Conditions of Employment

5.2.3.1 A review of the conditions of employment was undertaken in 2004 and this resulted in MMOs moving from contract staff to non-ongoing status. The MMOs were pleased with this change but they are very conscious that their counterparts in both AQIS and ACS enjoy ongoing status and the benefits that brings.

5.2.3.2 I have not had an opportunity to explore the implications of non-ongoing vis a vis ongoing employment status but I do note that numbers of the MMOs have been employed for many years and I do not foresee the concept of MMOs as being substantially changed in the foreseeable future. But, I also note that it was only two years ago that the change of status to non-ongoing staff took place.

5.2.3.3 The comparable ACS staff work 25 hour weeks. Two AQIS staff (ie those on Saibai and Boigu) are fulltime and the 24 others are .82 of fulltime.

5.2.3.4 An issue of understandable aggravation for some MMOs is that they believed that when they moved from contract staff to non-ongoing permanent staff that they would have their previous service recognised. This recognition has not occurred. At Attachment 6 is a copy of a request for recognition of prior service from one of the MMOs.

5.2.3.4 There is low turnover of MMOs and staff occupying the positions enjoy considerable status in their local communities. A few MMOs are members of local Councils but none hold responsibility for the “immigration portfolio”.

Recommendations

5.2.3.5 Action be taken to resolve the outstanding issue of the recognition of prior service for MMOs consequent upon their change of status from contract to non-ongoing staff.

5.2.3.6 Further consideration is given to the employment status of MMOs and whether they should not enjoy ongoing rather than non-ongoing status.

5.2.4 MMO Hours Allocated to Each Island

5.2.4.1 Each Island is allocated a certain number of hours per fortnight and this is managed by the team leaders. The hours can be varied by the Regional Manager.

5.2.4.2 The current allocation of hours is of long standing and needs review. When a decision is made on whether MMOs will have access to boats and where these will be located a review should be undertaken using key workload data and taking account of the context of each island.

5.2.4.3 At Attachment 4 is a summary of current hours allocated and some (but not all) key workload data which prima facie highlights the need for a review.

Recommendation

5.2.4.4 After a decision has been made on the location of boats, a review be undertaken of hours allocated to MMOs on each island.

5.2.5 Management of MMOs

5.2.5.1 The administration of MMOs is a major task for the Thursday Island office. I am referring not only to the management of their day to day activities but also the acquisition and maintenance of equipment, acquisition of stores etc.

5.2.5.2 MMOs are organised in two teams and are managed by two APS4 team leaders in the Thursday Island office. Although there is daily phone/fax contact between MMOs and their managers there is a need for more frequent visits to MMOs and to the communities in which they work. As outlined earlier MMOs can find themselves in situations of some potential or actual conflict of interest and their managers and other senior staff must monitor the possibilities of this and assist to quickly resolve any actual conflicts.

5.3 Recording of Movements of Traditional Inhabitants

5.3.1 The current system of recording movements is, with the exception of Boigu, a manual one. Boigu has access to an old standalone computer (without a printer).

5.3.2 Movements are recorded in separate hand written logs for arrivals and for departures. These logs are sent to Thursday Island on a weekly basis and the movements sheets are held in folders. I was advised that some time ago the movements were recorded in ICSE but this was discontinued because of the workload involved.

5.3.3 Four new computers whose principal purpose would be to record movements have been acquired and it is proposed to install these on Boigu, Saibai, Dauan and Yam. There are no current plans to bring these online but this certainly should be an objective and provision of computers on other islands should be planned for. AQIS has computers online on four islands.

5.3.4 A base requirement is a significant revamp of what is recorded and how it is done.

5.3.5 I have four proposals for change. Further consideration by others may suggest more.

- all arrivals and departures should be recorded on the one document facilitating ready identification of overstayers or other exceptional circumstances
- the documents should include a record of all persons refused entry
- the reasons why a visit is being made should be included not a general statement such as a "TI visit". Boigu has some breakdown of the reasons for visits which is helpful but does not go far enough. The reasons should primarily be those drawn from the Treaty but with some further exemplification eg religious ceremonies (state what eg marriage or funeral), barter and trade (shopping, purchase of fuel etc). There will be other reasons outside the Treaty such as medical treatment as patient or as escort.
- include on the record of movements whether an entrant is moved south on a medivac. Currently medivacs are separately recorded.

5.3.6 Other information which is currently being collected needs to continue to be collected.

5.3.7 My reasons for proposing these changes include that the numbers of movements are gradually increasing and it is important to have some base information to monitor changes and further to assess whether the Treaty is meeting its objective in relation to free movement of traditional inhabitants for traditional activities.

5.3.8 There is continuing discussion about people from a range of additional PNG villages being included as traditional inhabitants. Some assessment of resource implications of such action will be one factor in informing such a decision. I note in passing that there are varying views about the likelihood of the so called aspirant villages being added to the list with the general consensus being that such changes are certainly not imminent.

5.3.9 A second and important reason is that there does need to be continuing oversight from Thursday Island of cases which might suggest anything which is out of the norm happening on an island. As noted elsewhere MMOs can be subject to significant pressures from family and close friends over the entry and stay of family members. Councillors can also be subject to such familial pressures.

5.3.10 MMOs may need assistance/guidance/direction from time to time and a comprehensive and easily understood recording system will help greatly. Such a system could be more readily monitored from Thursday Island.

5.3.11 Third the movement data is from time to time very useful information to law enforcement agencies. The more comprehensive and timely the more helpful it could be. For example, looking at patterns of movements of certain individuals is now a very time consuming task. In the necessary redesign of the movement records AFP, ACS and Queensland Police should be consulted as to what would assist them.

5.3.12 Fourthly it is valuable to have a reliable base of information when discussing with island Councils concerns (which wax and wane) they have about people movements to and from their islands. People movement is an issue of ongoing concern to local communities.

5.3.13 The department should also examine whether the movement of PNG visitors into and out of the Protected Zone should be included in a centralised data base, available nationally. The information held would of course not contain details such as passport visa information as contained in the movements database.

5.3.14 I discuss training needs at section 5.9 but I do not underestimate the training and hands on assistance which will be required to assist staff become computer literate and to move to the more comprehensive recording system proposed.

Recommendation

5.3.15 A significant revamp be undertaken of the content of the records and methods of recording (ie move to computerisation) of the movements of traditional inhabitants into and out of the Protected Zone.

5.4 Management from Brisbane or Cairns

5.4.1 Currently the DIMA Regional Manager in Thursday Island is responsible to a Deputy State Director in the department's Brisbane Office.

5.4.2 It is of note that other relevant Commonwealth agencies represented in the Strait, with both larger and smaller staff numbers/workload, are responsible to a North Queensland senior manager based in Cairns. These are agencies with whom DIMA works closely in fulfilling its responsibilities.

5.4.3 As a result of my enquiries I consider that the Regional Manager (EL1) on Thursday Island should be responsible to a new position of senior manager (EL2) based in Cairns. Such a person would carry responsibility for both Cairns Office and the Torres Strait. This officer would be responsible directly to the State Director in Brisbane and a member of her state executive.

5.4.4 I have been led to this conclusion by a mix of factors including workload, complexity of some of the responsibilities, the risks associated with some key tasks, of the need for quite close oversight to ensure compliance with policies and procedures, of the importance of successful outcomes being reliant upon a depth of understanding of cultural factors and the importance of having a very good feel for the local politics of the region.

5.4.5 The DIMA Deputy State Director provides an oversight and leadership role but both he and the State Director readily acknowledge that the Torres Strait does not get enough senior management attention because of other more pressing priorities. The Regional Manager has been left on his own too much.

5.4.6 For example senior managers from Brisbane have been visiting the Strait 2-3 times a year. However, the visits are often short and associated with a particular event eg JAC meeting, training workshop and afford little time to undertake reasonably detailed oversight of administration in the region and some of the necessary liaison with local communities and leaders, particularly on the outer islands. By way of comparison the AQIS regional representative in Cairns has a regular program of 6-7 visits per year to the Strait plus the occasional visit prompted by a specific event. It is the view of some AQIS central office staff that you can get a major disconnects between Brisbane and the Torres Strait.

5.4.7 As noted earlier the lifestyle of the Torres Strait Islanders is unique as is the presence, so close to Australia, of a land border with a foreign country. A further unique feature is our reliance on the role played by local communities in identifying people with no rights of residence in Australia added to which we have a heavy reliance upon their communication networks with the PNG mainland to alert us to potential threats of illegal entry.

5.4.8 A consequence of our reliance upon local communities is the need to be regularly in touch with the communities and this requires time and face to face contact. The Regional Manager and his Thursday Island staff play a vital role in the building and maintenance of good relationships. However there are many local politicians upon whose good offices the department relies and for whom issues of the

entry and stay unauthorised people is an important local issue. These leaders respond to the interest of senior officers in them and their issues. A senior DIMA officer reasonably frequently visiting the islands (which will not happen from Brisbane) will generate a positive response from island leaders with gains in cooperation from them and their island residents for our staff and their functions.

5.4.9 The frequency of more senior level contact will also result in DIMA gaining a depth of understanding of local culture so important to doing effective business. Most importantly such a close contact must contribute to enhanced compliance by staff with policies and procedures.

5.4.10 One must also not underestimate the tyranny of distance and the barriers it poses to both ready access and understanding of the Torres Strait context and the local perception that only 'locals' can truly understand what happens here. Whether the perception is correct or not 'localness' greatly enhances credibility. Cairns, is two hours flight away, Brisbane a minimum of half a day but more likely a days travel.

5.4.11 In looking at the map at Attachment 8 it is relevant to ask would we reasonably consider managing issues of some detail in locations in far south Tasmania from Brisbane.

Recommendation

5.4.12 A new position of Executive Level 2 be established in Cairns with responsibility for the Thursday Island and Cairns offices. The occupant of this position would be a member of the Queensland State Office Executive.

5.5 DIMA Office Accommodation

5.5.1 The department has two demountable dongas (small demountable offices) to provide office space for MMOs on Saibai and Mabuiag.

5.5.2 DIMA has office space provided by the island Council (free of charge) on Mer, Yorke, Yam, Boigu, Dauan, and Badu.

5.5.3 The MMOs have a DIMA installed phone/fax in each of the above.

5.5.4 In the communities of Stephen, Darnley, St Pauls, Kubin, Coconut and Warraber MMOs do not have a designated office space, however they can access telephones and fax from the Council office with the exception of Stephen where the department has purchased a telephone/fax and installed a telephone line to the MMOs residence.

5.5.5 Some of our accommodation which I saw is poor i.e. Boigu and Yam. In Boigu a small office for three people (but there is a possibility of another conveniently located room) and in Yam an open plan Council office providing no opportunity for any privacy of discussion.

5.5.6 The enhancement of office accommodation must be a priority but I do not underestimate difficulties associated with the availability of sites eg native title issues and just plain lack of suitable areas near the waterfronts where visitors land.

5.5.7 Also within sensible financial parameters, the department needs to be flexible and consider non-traditional options eg Boigu and other councils have been considering establishing multi purpose buildings for Commonwealth and State agencies represented on an island.

5.5.8 The department currently has funding in the Capital Plan for eight dongas. At this stage funding has been agreed for Yam and Darnley dongas. However dongas actually appearing on the ground and being properly equipped will require considerable effort, persistence and oversight from the Regional Manager and his staff. Every effort should be made to use the available funds to have suitable accommodation in place in as many locations as practicable.

Recommendation

5.5.9 Capital funds for eight new dongas are available and efforts should be made to ensure that new office accommodation is provided on many outer islands.

5.6 Office Equipment

5.6.1 The department's offices/office locations I visited are poorly equipped.

5.6.2 I recognise that the climate and locations result in substantial wear on furniture and other equipment. But decent filing cabinets, a bar fridge (it is a very hot and humid climate) and reasonable chairs and desks are necessary. Others provide such for their staff and I am confident better equipment will improve efficiency.

5.6.3 All have a phone/fax, none have phone message recording equipment despite the fact that many officers work part time or have duties to take them away from the office.

5.6.4 In only two offices are there computers i.e. Boigu and Saibai. In Boigu there is no printer and the equipment on Saibai does not work. Neither of the computers is online. In contrast AQIS have computers on Boigu, Saibai, Yorke and Yam and the last three mentioned have dedicated lines enabling email access and access to relevant departmental systems. Boigu has dial up access. In section 5.3 I urge that we develop a plan to provide online access to the key islands where the majority of movements take place.

5.6.5 Out of hours access to MMOs is a recent issue. Most have phones connected to their homes or have a neighbour's phone which can be used, but the reality is that sometimes phones are disconnected (eg bills not paid) and it may take time for reconnections to take place. It is important to keep such lists of contacts up to date. Satellite phones have been suggested for each officer but I am advised that they are not effective within residences nor if there is heavy cloud cover.

5.6.6 However, CDMA phone coverage is already available on several islands and it is being extended across much of the Strait. Provision of mobiles should be considered for out of hours contact. However the administration of these will not be without complications.

Recommendations

5.6.7 There be a significant up grade in office equipment and furniture. Four computers recently purchased be installed and early consideration be given to having these brought on line.

5.6.8 Consideration be given to making mobile phones available as CDMA phone coverage extends across the Strait. The availability of such phones would improve the possibility of out of hours communication

5.7 Land Transport

5.7.1 DIMA maintains nine, four or two-wheel-drive bikes to enable the MMOs to undertake land patrols around their islands. There are bikes on Badu, Boigu, Darnley, Mabuiag, Mer, Saibai, Warraber, Yam and Yorke.

5.7.2 There is a need for transport to undertake land patrols and to get around the islands. Unlike boats or vehicles bikes are not an item which could be readily shared amongst staff of various agencies.

5.7.3 Although there are requests for 4 wheel drive vehicles from MMOs I can not see a justification for these and the MMOs do have access to AQIS vehicles.

5.8 Importance of Cooperative Arrangements in the Torres Strait

5.8.1 A fundamental contributor to the department achieving its goals in the Torres Strait lies in the capacity of its staff to establish and maintain cooperative relations with numerous other parties who have responsibilities/interests in the region.

5.8.2 Achieving this cooperation is heavily dependent upon personal contacts and relationships. For the DIMA staff (particularly the Regional Manager on Thursday Island) to be able to undertake this task he/she must have the time and the funds to undertake necessary travel.

5.8.3 Funding should take account of this.

5.8.4 The presence of a senior manager position in Cairns with responsibility for the Torres Strait will be a contributor to the range of liaison tasks.

5.8.5 Not all officers will have the personal skills to relate readily to some of the department's key constituents. In the selection of future Regional Managers this attribute should be seen as essential.

5.8.6 Discussions with relevant Commonwealth and Queensland Government agency representatives represented in the Torres Strait all commented favourably on cooperative arrangements between their staff and those of DIMA.

5.8.7 The MOU between DIMA and AQIS, subject to the comments on possible use of AQIS boats for DIMA purposes, works well.

Recommendation

5.8.8 The department recognise, in the selection of the person to occupy the Regional Manager position, a priority for attributes which will facilitate maintaining liaison and development of cooperative relationships with many parties in the Torres Strait. The extent of liaison needs to be recognised with provision of adequate funding for travel and time to build and maintain personal contacts.

5.9 Staff Training and Development

5.9.1 Thursday Island management has been conscious of training needs of staff. For example MMOs have had annual workshops (one week in 2005) and they and others have had other training opportunities in the recent past, including training taking place outside the Torres Strait. The last mentioned is particularly beneficial for people working in very isolated locations.

5.9.2 The department should however look to invest further in training and, crucially, the follow up to training in the future. Let me exemplify.

5.9.3 If the department relocates boats on some outer islands there will have to be a major training program in what the department requires in terms of operating the craft. This will have to be in addition to external qualifications which will be required for crew eg coxswains certificate.

5.9.4 The boats will undoubtedly be required to carry new safety and navigation equipment. Again a training need. As with boat training it will be necessary to have such training led by appropriately qualified and experienced people.

5.9.5 There is a need to provide specific training to staff who were delegated certain Migration Act powers and for all staff Code of Conduct training.

5.9.6 The MMOs will require considerable training in the use of computers and ready access to help desk assistance as they develop their skills.

5.9.7 As under the MOU MMOs can share responsibilities with AQIS staff where there is a need for necessary training for DIMA staff on quarantine duties and for AQIS staff on DIMA functions.

5.9.8 As MMOs are contributors to information gathering for a range of agencies their input to training for these should be included.

5.9.9 There is a need to ensure that there is not only initial training but also regular refresher training.

5.9.10 There are two overriding contexts to the training provided.

5.9.11 Firstly it must be tailored to the audience and to the unique context in which Torres Strait staff work.

5.9.12 Secondly and as emphasised elsewhere there must be compliance/audit/inspection/follow up to the training which has been given. This will require face to face follow up of staff in the field and review, for example, of how delegations have actually been exercised, how boats are maintained and will require a significant investment particularly of senior management time from both Thursday Island and from the proposed senior manager in Cairns. The outcomes of this compliance activity will need to be fed into the content of training.

5.9.13 More and more relevant training, greater expectations of MMOs in the undertaking their duties, eg in the recording of movements, provision of better equipped offices and their recognition of a greater interest from Thursday Island in how they are performing, can all contribute to a desirable enhancement in the professionalism of the officers.

Recommendation

5.9.14 There is a need to invest in additional training both in relation to new responsibilities eg the use of computers and boats, but also in relation to ongoing responsibilities such as the delegations and the application of the Code of Conduct.

5.10 Regular Reporting

(a) Reporting between Thursday Island and Queensland and National Offices

5.10.1 The Brisbane and Thursday Island offices provide regular six-monthly reports on Torres Strait operations to the First Assistant Secretary Border Security Division. These are comprehensive documents and include outcomes of JAC and other treaty consultative processes.

5.10.2 The Thursday Island Office provides a monthly report to the Brisbane Office. I located some of the reports for 2005 but they are not held on any one file and I could find no record of follow up of issues identified. I do note that since October 2005 when investigations commenced into the loss of the *Malu Sara* many files from Thursday Island, Brisbane and Canberra have been taken for the various enquiries which may explain the absence of records.

5.10.3 However, I could not see identification by management in the State Office as to what were the key issues on which regular, and exception reporting was to be made. Nor did I perceive consistent response from State or National Offices on issues raised. I suspect Thursday Island reported on what it thought State/National offices needed to know. State and National Offices need to be working with local management to determine what are the issues on which reporting is required over forthcoming periods.

(b) Reporting on Boat Patrols

5.10.4 To assist MMOs better report on patrols the current wholly narrative reports be scrapped.

5.10.5 A template should be developed which would enable MMOs to report largely by completing specific predetermined questions. This material could be supplemented by a narrative as necessary.

5.10.6 The templates should include clearly setting out the purpose of each boat trip eg a specific tasking responding to a reported incident, or a regular patrol or a search and rescue etc. Further to require advice as to what of relevance was seen/found, where, at what time and what was done about it.

5.10.7 Such information could then be collated in Thursday Island for each boat to more effectively monitor the outcomes of boat useage. In developing the structure of such reports there would be value in enquiring of ACS and AQIS what reporting arrangement they have in place

Recommendation

5.10.8 Regular reporting on key aspects of Torres Strait operations from Thursday Island to the Queensland and National Offices needs to occur. The three Offices should agree from time to time on the principal issues to be reported upon and there needs to be a consistent feedback from Queensland and National Offices to matters raised by Thursday Island.

5.10.9 New and structured reporting arrangements be instituted to facilitate MMO reporting on boat useage.

5.11 PNG Citizens Seeking Medical Treatment

5.11.1 As discussed in section 4.9 issues surrounding the medical treatment of PNG citizens in the Protected Zone and those evacuated further south are of long standing. The department's immediate priority is to resolve the impact of the July 2005 amendments to the *Migration Act 1958* which excised the islands in the Torres Strait.

5.11.2 The JAC has had the broader issue on its agenda for some years and a working group of Commonwealth/State officials has been pursuing the matter since 2003. DIMA has been a member of this group.

5.11.3 An AUSAID funded health study within the Strait reported in March 2004 on the poor state of health care in PNG Treaty villages and one can assume the conditions in villages outside the treaty villages are also poor. The study drew attention to the need to improve the capacity of the provincial Health Department to effectively treat the community members in their own facilities thereby reducing the burden on Queensland Health resources. Such improvement will not occur in the short or medium term and Australia will therefore need to manage a continuing and growing flow of PNG citizens arriving at island medical clinics seeking treatment.

5.11.4 Queensland Health officials I met on Thursday Island are understandably exercised by the issue from the perspectives of a humanitarian need to provide treatment to ill or injured persons arriving on Australia's doorstep, from a public health perspective eg TB is evident in Western Province and from the cost on Queensland Health's resources.

5.11.5 I do not underestimate the complexity of the issue, the core of which is not DIMA's responsibility, but because the department's role in the entry of people, including in accord with public interest criteria, it is in DIMA's interest to press for progress towards resolution of the situation. Senior managers should encourage relevant Commonwealth and Queensland agencies to pursue the matter aggressively and if effective progress is not made ensure the Minister is advised. In the extreme, hopefully unlikely situation, if persons with notifiable and infectious diseases who are not being appropriately treated enter Australia there could be a loss of public confidence in processes in place for the free movement of people under the Treaty.

5.11.6 It must also be noted that the increase in apprehensions of illegal fishers is increasing demands on the Thursday Island health facilities which provide medical checks on all fishers prior to their relocation to Darwin.

Recommendation

5.11.7 The department give added priority to pressing relevant Commonwealth and Queensland agencies to make real progress towards resolving the policy and procedural framework for treating PNG citizens who enter the Protected Zone and move to Thursday Island (or further south) for medical treatment. If timely progress is not made the department should consider advising the Minister of possible implications for the administration of migration policy .

5.12 Traditional Adoptions

5.12.1 Customary adoptions, whereby children are adopted, generally by relatives, continue to be practiced in the Torres Strait. Small numbers of children of PNG parents are adopted by Torres Strait islanders and the recognition of these adoptions currently poses major problems for the department's staff.

5.12.2 The number of cases is not large, currently Thursday Island has 10 accumulated over quite some years, but they must be resolved and soon. Lack of resolution can cause unnecessary hardship to children and adoptive parents.

5.12.3 Under current Regulations customary adoptions can only be recognised if the arrangements were entered into outside Australia. I am advised that the need for a regulation amendment to make particular provision for recognised adoptions arranged in the Torres Strait has been accepted for some time but has not been able to get onto the department's change agenda because of other priorities. This should not continue to be the case.

Recommendation

5.12.4 Early action be taken to resolve the small number of customary adoptions which have been outstanding in the Torres Strait for some time.

Attachment 1 — Map of Torres Strait

Attachment 2 — Existing PNG Treaty Villages

1. Bula	2. Mari	3. Jarai
4. Tais	5. Buji/Ber	6. Sigabaduru
7. Mabadauan	8. Old Mawatta	9. Tureture
10. Kadawa	11. Katatai	12. Parama
13. Sui		

Attachment 3 — Copy of Traditional Inhabitants' Pass

Buzi /Ber Ward
C/- Kiwai Local Level Government
P O Box 181
Daru
Western Province

Date: 24/01/2006

To: The Chairman
Borgu Island Council
Torres Strait north
Queensland Australia

Dear Sir/Madam,

RE: PERMISSION TO VISIT ON TRADITIONAL PURPOSES

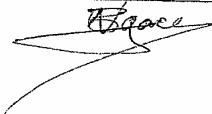
As per the provisions of the Torres Strait Treaty regarding Free Movement of traditional inhabitants of the border regions, the following persons have been authorized and are granted permission to visit you Community of Borgu Island.

- | | |
|------------------------------|-----------|
| 1. <u>BAWARI - NGARE</u> M/A | 6. _____ |
| 2. <u>BISA - NGARE</u> M/A | 7. _____ |
| 3. <u>WABO - JULIA</u> M/A | 8. _____ |
| 4. <u>KADIBA - SGLI</u> M/A | 9. _____ |
| 5. _____ | 10. _____ |

The visit is for the duration of 1 day(s)/week(s).

Your usual hospitality upon their visit would be greatly appreciated.

Mr Bawari Gnare
Ward Chairman




24/01/06

Mrs Adawa Afi
Womens Rep

Attachment 4 — Summary of Movements by Community *

Community	Total Movements 2004-5	Boat 2004-05	Medivacs 2004-05	Hours per Fortnight
Badu	466	1		80
Boigu	14 775		62	80
Coconut	48			10
Darnley	762		2	40
Duaun	4989	1		46
Kubin	144			10
Mabuaig	77	1		40
Mer	105	1		46
Saibai	26 458		65	160
St Pauls	110		1	10
Stephen	188			10
Warraber	50	1		26
Yam	1903	1	5	76
Yorke	903	1	4	56
Not Recorded			2	
TOTAL	50 978	7	141	

* Kubin and St Pauls are separate communities on Moa Island

Attachment 5 — Roles and functions of the MMOs

ROLES:

Movement Monitoring Officers (MMO) are responsible to the Department of Immigration and Multicultural and Indigenous Affairs to;

- ◆ Monitor and record the details of traditional inhabitants from both Papua New Guinea and the Torres Strait, arriving and departing the Protected Zone under the Free movement Provisions of the Torres Strait Treaty,
- ◆ Provide a liaison point between the Department and Community Council and agency representatives on their respective Island,
- ◆ Report on items of interest including any suspicious activity in their area of responsibility, and
- ◆ Adhere to the Code of Conduct in carrying out all the MMO functions.

FUNCTIONS:

Meet all traditional visitor vessels on arrival at the island:

- (a) Ensure that the AQIS officer inspects the vessel and its contents before collecting the Pass
- (b) Ensure the names on the Pass match the persons on the vessel
- (c) Take the Pass to the Chairperson or Councillor for their decision
- (d) Take the response back to the visitors, if permission is granted allow the visitors into the community after advising them to report back to the MMO before departing the island
- (e) If the Council decision is No, advise the visitor/s of the decision and who made the decision
- (f) If difficulties arise advise the Thursday Island office.
- (g) During the visitors stay do a follow up visit and provide a warning about the expiry date on the Pass
- (h) On the allotted day monitor the departure of the visitors, and
- (i) Where delegated (powers) detain and monitor or supervise the removal of non-traditional PNG visitors or PNG traditional visitors banned under Section 16, prepare and serve detention notices and other paper work

Ensure arrival and departure sheets are completed and forwarded to Thursday Island Office:

- (a) Daily record the details of visitors on the Arrival Sheet and attach the original Pass;

- (b) Record the details of visitors departing on the departure sheet, and;
- (c) Ensure that the original Arrival & Departure Sheets are forwarded by mail to the Thursday Island office with the original statistics sheet each fortnight.

Ensure any suspicious activity or breach of the Free Movement Provisions are immediately reported to the Thursday Island office

(NOTE: The office telephone is manned on a 24-hour basis):

- (a) The Thursday Island office or any other agency on the list at Annex A, is to be advised immediately if any non-Australian or Traditional Visitor arriving on your island
- (b) Advice should include the following details;
 - ◆ Full name and date of birth
 - ◆ Country of birth
 - ◆ Do they have any travel document in their possession
 - ◆ What language do they speak
 - ◆ Mode of transport i.e. dinghy, ship, aircraft
 - ◆ Route taken
 - ◆ Who brought them to your island
 - ◆ Names of persons they intended to visit
 - ◆ Any documents located and included on the Property Sheet
- (c) Make sure you keep a record of the correct date / time and details of the event including the location where the people were found.
- (d) On direction of TI Office, assist with the processing of any Third Country Nationals detected in the Torres Strait.
- (e) Provide intelligence directly to the Regional Manager of any activities of a criminal or suspicious nature.

Conduct regular land and sea patrols of your island;

- (a) MMO's are to conduct regular weekly patrols of their island in particular, those areas where traditional visitors land or those areas not normally inhabited.
- (b) All seas patrols are to consist of two persons.
- (c) Land and sea patrols should check the back of the island
- (d) If you are patrolling alone and you see people you don't know and you do not have a satellite phone with you go back and take a community police officer with you before you speak to the people or if you have a satellite phone, call the community police for assistance before approaching the people,
- (e) Ask the person/s their identify, what they are doing there and where they are going.

Attachment 6 — Request for Recognition of Prior Service

10-02-06:15:09

1 / 1

REQUEST FOR RECOGNITION OF PRIOR SERVICE FORM

Please PRINT CLEARLY when completing this form.

I,, commenced my current period of employment with the
Australian Public Service on 01/07/2004

Prior to my current continuous service I worked as follows:

Department/Statutory Authority	Location	From	To
D.I.M.I.A		01/01/1991	PRESENT
		/ /	/ /
		/ /	/ /
		/ /	/ /
		/ /	/ /
		/ /	/ /
		/ /	/ /

* ~~This service has/has not been officially recognised as prior service by a previous department.~~

Or

* I hereby apply for this period of prior service to be recognised for the purposes of Long Service Leave and Sick Leave.
(*delete which is not applicable)

SIGNED:

DATE: 28/06/2004

PERSONNEL POLICY AND SERVICES SECTION

G:\RECRUITMENT STANDARD LETTERS, Forms & Guidelines\FORMS - New Starter\Recognition of Prior Service-Mode of Payment.doc

Attachment 7 — AMSA Advice



Australian Government
Australian Maritime Safety Authority

AMSA Ref: 07040

Your Ref:

Mr A Kelson
Director Seaport Policy Section
Department of Immigration & Multicultural & Indigenous Affairs
PO Box 25
BELCONNEN ACT 2616

Dear Mr Kelson,

SURVEY OF COMMONWEALTH VESSELS

As you are aware, the Navigation Act 1912 applies to all Commonwealth Ships regardless of the voyage being undertaken.

Marine Orders Part 62 – Commonwealth Ships, Issue 1, is the subordinate legislation which further specifies provisions relating to this matter. It is this Marine Order that provides exemptions and relaxations to Commonwealth Ships from certain provisions of the Navigation Act.

One of these 'relaxations' allows vessels less than 7 metres in length to operate without all the usual USL Code survey and certification requirements. In this regard, AMSA have specified that an Agency utilising this provision must establish and maintain a planned maintenance and inspection system for the vessel. In addition, we require that the vessel complies with AS1799.

Vessels utilising this provision of the Marine Order have been issued with a "Letter of Survey".

To date, we have accepted a statement from the operator that the vessel complies with the AS1799 and that maintenance and inspection systems have been implemented. A recent incident involving a Commonwealth vessel has led to a review of the way in which these vessels are regulated. As a consequence, pending changes to the Marine Order, we now require the following for vessels covered by the "Letter of Survey" provision:

- Positive confirmation that the vessel complies with AS1799, particularly in regard to stability, buoyancy and swamp tests requirements. This would ideally be by provision of a test report from the builder or independent surveyor. For vessels of similar construction, prototype testing may be accepted.
- No new Letters of Survey will be issued until this is provided. For vessels currently holding a Letter of Survey, I would request that verification be

Level 1, 25 Constitution Avenue • GPO Box 2181, Canberra ACT 2601
Telephone: 02 6279 5048 Facsimile: 02 6279 5058

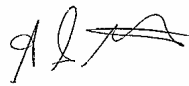
provided as soon as possible. If testing is required to verify this, AMSA would appreciate notification.

- In addition, extracts of log books and inspection and maintenance records may be requested prior to re-issue of any Letter of Survey, or during random sampling throughout the year.
- Crew qualifications must comply with USL Code requirements. In most cases this will require as a minimum a Coxswain's certificate to be the person in charge of a vessel. Any enquiries regarding specific qualifications or a proposed timeframe for compliance can be directed to the AMSA Manager in our regional offices.
- Operationally, crew and any passengers are to wear a PFD (inflatable type complying with AS1512 is acceptable) at all times while the vessel is underway. AMSA will closely review all operational procedures provided by the Agencies involved to verify that crew training is adequate and that vessels are being operated within permissible limits. Reporting procedures for vessel movements will also be verified.
- All Commonwealth vessels will be required to carry a 406 MHz EPIRB and marine VHF radio. Where VHF coverage is inadequate, satellite communications will be required (Iridium or Satcom-C). Adequate navigational equipment for the area of operation will also be required (for example GPS, chart plotter etc).

As stated, the Marine Order is currently under review and any changes will be promulgated.

If you have any questions, please do not hesitate to contact me.

Yours sincerely



A Schwartz
Manager, Ship Inspection
Maritime Operations

22 December 2005

Attachment 8 — Queensland Map

Page 1 of 1

