



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL
AND EXTERNAL TERRITORIES

Reference: Changing economic environment in the Indian Ocean Territories

WEDNESDAY, 19 AUGUST 2009

CANBERRA

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JOINT STANDING
COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES

Wednesday, 19 August 2009

Members: Senator Lundy (*Chair*), Mr Secker (*Deputy Chair*), Senators Crossin, Ferguson, Humphries and Joyce and Mr Adams, Ms Burke, Ms Annette Ellis, Mr Neville and Mr Turnour

Members in attendance: Senators Crossin, Ferguson, Humphries and Lundy and Mr Adams, Ms Burke and Mr Neville

Terms of reference for the inquiry:

To inquire into and report on:

The changing economic environment in the Indian Ocean Territories giving consideration to current arrangements, barriers to business development and future need with regard to:

- a. communication services such as broadband internet, digital television and mobile telephony;
- b. transport services and costs including passenger and freight transport;
- c. Commonwealth Government services and programs;
- d. the operation of businesses in the region;
- e. cost and availability of housing; and
- f. the impact of climate change.

WITNESSES

**MIHOV-NICOTODIS, Mr Liviu, Acting Assistant Secretary, Territories West, Attorney-
General's Department 1**

**YATES, Mr Julian Anthony, Acting First Assistant Secretary, Territories West, Attorney-
General's Department 1**

Committee met at 12.39 pm**MIHOV-NICOTODIS, Mr Liviu, Acting Assistant Secretary, Territories West, Attorney-General's Department****YATES, Mr Julian Anthony, Acting First Assistant Secretary, Territories West, Attorney-General's Department**

CHAIR (Senator Lundy)—I declare open this public meeting of the Joint Standing Committee on the National Capital and External Territories. The committee is inquiring into the changing economic environment of the Indian Ocean Territories. The inquiry was referred on 11 February 2009 by the Minister for Home Affairs. The committee will examine the changing economic environment in the Indian Ocean Territories, giving consideration to current arrangements, barriers to business development and future need in relation to: (a) communication services such as broadband internet, digital television and mobile telephony (b) transport services and costs including passenger and freight transport (c) Commonwealth government services and programs (d) the operation of businesses in the region (e) cost and availability of housing and (f) the impact of climate change.

Today, at our first hearing, we will be hearing from representatives from the Attorney-General's Department. The evidence given today will be recorded by *Hansard* and attract parliamentary privilege. I remind members of the media who may be monitoring this hearing of the need to fairly and accurately report the proceedings of the committee. I welcome my colleagues and welcome Mr Yates and Mr Mihov-Nicotodis. Although the committee does not require you to give evidence on oath, I should advise you that these hearings are legal proceedings of the parliament and therefore have the same standing as the proceedings of the respective chambers. We have received a written submission to this inquiry from you. Do you wish to present any additional submissions or make an opening statement to the committee?

Mr Yates—Yes, with the committee's indulgence I would like to do so. I would like to begin by updating the committee on some information in the department's submission. I would then like to expand on some of the department's activities that relate to economic and social development in the territories and finally I would like to comment briefly on progress since the previous inquiry by the committee and the Commonwealth Grants Commission. In terms of updating our submission, since the department's submission activity on Christmas Island in support of the government's immigration policy has continued to increase. While the permanent population is unlikely to have experienced significant change, a large short-term population increase has occurred. There are approximately 300 staff engaged in immigration activities on Christmas Island, and this is in addition to around 700 people currently in immigration detention. That is an approximate figure, as you will appreciate—that figure varies with arrivals and departures.

In response to heightened demand for air services consequential to this increased activity, the department has recently increased the number of flights between Perth and the territories to four services per week. Four services go to Christmas Island and three of those also include the Cocos (Keeling) Islands. This provides additional capacity for both passengers and airfreight. We have also introduced a new airfare structure that has made these services more affordable. The air services continue to be provided by Cobham, formerly National Jet Systems, and the

department are preparing a new tender for air services which we anticipate being released later in 2009. We can probably go into more detail on that if you require. Finally, construction of the passenger and freight facility at Rumah Baru in the Cocos (Keeling) Islands is underway. This project is on time and on budget and is expected to be completed in March 2010.

In terms of the economies of the Indian Ocean Territories the main economic activities on Christmas Island are the mining of phosphate, tourism and the provision of government services. Similarly, the main activities in the Cocos (Keeling) Islands are tourism and the provision of government services. All businesses are challenged by the current economic climate and those on Christmas and Cocos are no different. However they also face challenges unique to their location and context. Transport costs to the territories are high and this flows on to all manner of business inputs. The Christmas Island economy is dominated by the mining operations of Phosphate Resources Ltd. PRL's current operations are based on mining leases that will expire in 2019. While it has applied for environmental approval for new mining leases, phosphate mining will eventually cease at some point.

Meanwhile, recent increases in immigration activities have presented both challenges and opportunities for the Christmas Island community. The department continues to work with the Department of Immigration and Citizenship to ensure that essential services to the community are not affected. At the same time, the department is encouraging the community to take advantage of opportunities for local businesses and employment. Both mining and immigration activity have flow-on benefits for the Cocos (Keeling) Islands. Demand for services such as shipping on Christmas Island often ensures that those same services are viable for the Cocos (Keeling) Islands, and last year the department commissioned an economic profile of the territories, which I am able to table for your information. We have a number of copies available for each member of the committee.

CHAIR—Thank you. We need a resolution from the committee for that to be tabled. So moved by Senator Humphries and Senator Crossin.

Mr Yates—The profile in the report that we are tabling is useful in understanding the composition and the interdependencies of the territory's economy. I need to note here, however, that it was completed before the financial crisis and it should be considered in the context of the recent changes to mining and particularly immigration activity. The economic profile in the report is being used, however, by the department to inform the implementation of government programs.

The Australian government is committed to assisting the territories communities to manage their own futures by encouraging sustainable economic development. The department pursues this goal by providing services and infrastructure, funding support and capital works with the objective of ensuring the territory communities enjoy the same level of services as equivalent communities on the mainland—noting here, of course, that there are no directly equivalent communities and we generally use what is done in comparable sized communities in the remote parts of Western Australia.

The government recently appointed an economic development officer whose role is to assist the communities to explore business opportunities and develop associated skills. This particular role is about assisting the communities to build their capabilities to develop and pursue

economic opportunities as they come about. The territory administrator has established an economic development consultative group for each territory. The purpose of the groups is to promote communication and cooperation on economic development projects within the communities. Members of the Christmas Island group met for the first time on 22 July and I understand that its discussions were productive. The Cocos (Keeling) Islands group met on 13 August and I am also advised that their discussions were beneficial.

The economic development funding program continues to provide up to \$150,000 in funding each year for territory residents to pursue business and development opportunities. Grants totalling \$375,000 from this program have been distributed over the past three years, on projects such as walking trails on Christmas Island and facilities for kite surfing on the Cocos (Keeling) Islands. Here I note that over the past three years the bids for funding from this program have been less than the funds available, with \$375,000 in grants made out of the \$450,000 potentially available. The department considers that the appointment of the economic development officer will assist businesses in the territories to access this funding.

Tourism is an industry that will continue to make a significant contribution to the economies of both Christmas Island and the Cocos (Keeling) Islands. In 2008-09 the government provided a total of \$770,000 to the tourism associations of both territories. The funding included support for a tourism development officer on Christmas Island. The government will continue to assist the Christmas Island Tourism Association prepare for the first cruise ship visit, currently scheduled for December this year. The government is funding a project officer at the tourism association to assist them with this and is also investing in new wharf infrastructure to allow the visit to take place.

The government continues to support vocational education and training for the territories. The government funds the Indian Ocean Group Training Association and engages the WA Small Business Development Corporation through a service delivery arrangement. These organisations provide a range of services to increase the skills and the capacity of the territory communities.

The department has commissioned a crown land management plan to assess crown land in the territories for economic, cultural, environmental and social values. The management plan will be used to inform the shires' local planning schemes and to seek holistic development approval for a range of possible projects. The management plan has been developed in close consultation with stakeholders in both territories and we expect it to be finalised later this year. Last year the department commissioned a report on the effects of climate change in the territories. I would also like to table that report.

CHAIR—So moved by Senator Crossin.

Mr Yates—The report identifies a range of risks caused by climate change and has been used by the department to develop mitigation strategies. Community involvement will be critical in this process. For example, the department recently held an event on the Cocos (Keeling) Islands which allowed Cocos elders to speak about their experience of the Cocos environment and how it has changed. Finally, the department retransmits television broadcasts in the territories as a community service. Analog television is due to be switched off by the end of 2013 and we are preparing to commence digital broadcasts before this time. We will again be engaging in some

community consultation about how we will implement the change from analog to digital television.

I would like to give an update on two recent inquiries—one by this joint standing committee in 2006. It previously turned its attention to the Indian Ocean Territories in 2006 to inquire about governance arrangements. The committee made 13 recommendations on a range of issues in its report and I would like to update you on two matters. In relation to the Christmas Island Resort, the government has said it would consider an application for a casino licence on its merits. As at this point we have received no applications. In relation to the second and third recommendations of the 2006 report on property disposal, the government's policy remains to dispose of property on the open market, and there are only a few exceptions to this process in a broad sense from the government's position. The department follows this policy when dealing with land in the territories.

Turning to the 2007 Commonwealth Grants Commission report, I would like to note here that it completed a review of the state type services provided in the territories by the department. These state type services are normally provided at a state level, but in Cocos's case they are provided by the department, and cover things such as health services, education and local government funding. The CGC's report of October 2008 noted that with some minor exceptions service levels are appropriate, as are the funding levels. The CGC did make recommendations relating to the accreditation of health facilities and the establishment of a women's refuge on Christmas Island. Work is underway within the department to address these recommendations.

In conclusion, the department recognises the challenges faced by the communities of the Indian Ocean Territories. We continue to provide considerable support to assist the communities meet these challenges and we welcome the committee's view on how our efforts may be improved.

CHAIR—Thank you. Mr Mihov-Nicotodis, would you like to add any comments?

Mr Mihov-Nicotodis—No, thank you.

CHAIR—Perhaps I could drill down in the first instance into the digital television, broadband and mobile telephony issue. It was listed in the terms of reference and I am particularly interested as to what consideration the department has given to the implementation of the National Broadband Network to both Christmas Island and the Cocos (Keeling) Islands.

Mr Yates—Provisional internet services are primarily the responsibility of the private sector. The Australian government has recognised the importance of high-speed, affordable broadband to support communities and the economy. The Australian government is investing, as you would note, in the new National Broadband Network. Specific questions on this network in relation to the Indian Ocean Territories should be referred to the Department of Broadband, Communications and the Digital Economy. I can go into some more detail about some of the specific arrangements on the islands at the moment if you would like.

CHAIR—Particularly what are the current arrangements for the distribution of bandwidth on the Cocos (Keeling) Islands?

Mr Yates—The Christmas Island Internet Association, or CiiA, provide the internet services to the territories, and they use both satellite and wireless linkages to get their broadband in. The service has been determined to be metro compatible, which results in customers within the coverage area not being eligible for subsidised services under current government programs—and the Department of Broadband, Communications and the Digital Economy administers that program. I do not have details of CiiA's internal workings as to how they divide up the broadband access that they get between the residential and business customers.

CHAIR—So do you own or support any telecommunications infrastructure?

Mr Yates—The Australian government, through the Attorney-General's Department, certainly has its own satellite links, and a number of other government agencies have their links on there—notably, Immigration has its facilities. We are investigating, with the other agencies on the island, what opportunities there may be for a whole-of-government solution. That process is underway. I am optimistic that it will result in a better whole-of-government solution. When we have these discussions, we are looking for what opportunities it may have to assist the community, but by the same token we are conscious that we do not wish to break into the private sector's provision and have an impact on that.

CHAIR—Given you said that the private sector had a responsibility, or was primarily responsible, how is it that they do not get access to government businesses as part of underpinning their private sector business case and therefore sustaining, arguably, a better service for the citizens?

Mr Yates—I think that is primarily because of the security requirements in government on how services are to be provided. We do use elements of the private sector, of course, for carriage of our data, but those are quite tightly controlled, for security reasons, with the main contracted providers that each department has, be it Optus, Telstra or others.

CHAIR—So you have a separate satellite connection; you do not utilise any of the wireless bandwidth services on either island?

Mr Yates—We do not use CiiA's service as they provide it to residences or businesses. We have a section of bandwidth that we purchase, I believe, through Telstra. My understanding, particularly in terms of Christmas Island, is that there is adequate bandwidth available; it is a question of how much CiiA wishes to purchase from Telstra. Now, that is a matter for their business; I cannot comment in detail on their rationale for how much they did or did not buy.

CHAIR—So, as part of your consideration of a whole-of-government solution, have you determined as part of that investigation what potential impact that might have on the private sector service providers?

Mr Yates—We have not made any final conclusions about that. It is an element of the considerations. We certainly do not want to do it in a way that would have a negative impact on the community.

CHAIR—Is that a principle that has been established?

Mr Yates—In the discussions I have had, yes.

CHAIR—What about in a transition to a higher bandwidth environment? Is it anticipated that a private sector presence would remain on-island or is that something that has not been resolved yet?

Mr Yates—There is no intention, in the work that we are doing from a whole-of-government perspective, to replace the private network provided by the CiiA or by any other private operator that chose to come in. What we are looking to do there is maximise the value for money for the Commonwealth agencies in the internet connectivity or IT connectivity that we purchase, and see what options there are to get better performance for the dollars that we pay, taken across all the agencies there.

CHAIR—Finally, on this point—I think we will probably have to follow it up with the other department—what is the security standard that you require that private providers are not able to deliver?

Mr Yates—Some of that is getting into a technical area I am not competent—

CHAIR—I am happy for you to take that on notice.

Mr Yates—Yes, I will take that on notice, if I can, thank you.

CHAIR—Okay. Thanks. Questions, colleagues? Senator Ferguson.

Senator FERGUSON—I am interested in transport to and from the islands. I have not been up there for three or four years, but as I understand it the air service between Perth and the islands is subsidised by the Australian government; is that right?

Mr Yates—That Australian government underwrites the service to ensure that there is a minimum of two flights a week to each island—currently, Monday and Fridays. The purpose of the underwriting ensures that if the carrier does not achieve an agreed minimum level of revenue the flights will leave. If the aircraft is fully booked then the underwriting is marginal or nil. If one person is booked then the flight still goes. This is to make sure that there is certainty over the longer period. Because of demand at the moment we have worked with the current carrier and have increased the number of flights to Christmas Island to four a week. Three of those services also go to Cocos, instead of the minimum of two. That is responding to demand, not just from Immigration, but also community demand for airfreight, both on Christmas Island and, very importantly, Cocos.

Senator FERGUSON—Do they still do flights in alternate directions?

Mr Yates—They do. The Monday to Friday flights are reversing triangles. The Wednesday flight parallels the Monday one, in that it goes Cocos Island to Christmas Island. Part of the rationale for that is that it enables people to go to Christmas Island from Cocos Island for medical reasons. It increases their opportunity to access the bigger medical service that we have on Christmas Island. The Saturday service only goes to Christmas Island, except during peak

school holiday periods, where we usually have the Saturday service include Cocos. But that is very much a demand driven thing.

Senator FERGUSON—Is all of the fresh food that is going to the islands still taken by air?

Mr Yates—The vast bulk would go by air because of time. Christmas Island can get fresh food via the Malaysian airline service that comes from KL and then Singapore. There is some fresh stuff that comes up by refrigerated containers on the ships, but that is obviously—

Senator FERGUSON—How often does the Malaysian airlines flight arrive?

Mr Yates—One a week on Saturdays.

Senator FERGUSON—You talked about the phosphate mining on Christmas Island, where there is a licence until 2019. If the mining operations were to stop, and if the detention centre eventually became empty, which it was for a considerable time, how many people do you think would be left employed on the island?

Mr Yates—It would clearly have a major impact. The mine directly employs something like 140 people. There is more detail in the economic study that we had done. It was looking at this very question. It would have a significant impact on the sustainability of the island, which is a large part of the rationale for us looking to develop the island's capabilities in other areas. Tourism is clearly an area for further development, but we do not want to make the islands totally reliant on another single source of income or economic activity. We also want to try to assist the community to develop alternative small businesses. A current good example is an initiative that is proceeding on Christmas Island at the moment to do with bottled water. The aim is to develop a niche market where they can export the bottled water on the ship. When it leaves Christmas Island it is relatively empty. They can take advantage of the short travel distance to Singapore. That is looking for a niche high-value piece of economic activity. We want to try to assist the community to build those options as much as we can so that there is a more diverse base to the community.

Senator FERGUSON—I also read, I think, somewhere in here, about the proposal for a resort on the Cocos Islands. I presume that is on Home Island.

Mr Yates—No, the resort proposal is on land controlled by the shire by virtue of the Cocos Land Trust on West Island—

Senator FERGUSON—Okay, on West Island.

Mr Yates—on a site called Trannies. It is so-called because it is next to the transmitter site. The shire went out to market for this last year. It was unable to get any satisfactory responses. The timing was unfortunate in that the global financial crisis occurred not long after they went out to tender. That was unforeseen. The shire, I understand, is intending to go out to market again. We have provided them with technical assistance to help them with the processes of developing that sort of approach to the market.

Senator FERGUSON—Your department has done that?

Mr Yates—We have assisted the shire.

Senator FERGUSON—So the assistance is only in the form of technical assistance?

Mr Yates—That is correct.

Senator FERGUSON—No financial assistance?

Mr Yates—I do not believe there is direct financial assistance to the shire on that, but I would like to check that and if that is not correct I will let you know. Our assistance is primarily technical, helping them with how you do a large approach to market like that.

Senator FERGUSON—It is a great spot, but it is also reasonably remote and very expensive. I just wondered how a resort would manage to attract enough tourism.

Mr Yates—For Cocos at the moment, its tourism activity has remained reasonably sustained, compared particularly to tourism activity around the world. It is very much a niche market, not a broadscale one. Kite surfing is an example of a recent success story there, where one particular entrepreneur has been extremely active in developing a market from nothing and for the next three or four months she is bringing a significant number of people through. Given that, we believe that there is the opportunity on Cocos for a further tourism resort that is properly targeted to this niche market but that also, very importantly, needs to provide further employment opportunities for the Cocos Malay people. As you may be aware, unemployment on Home Island is quite significant. We think that this is the most appropriate way to try to develop alternative jobs for Home islanders that appears to have a reasonable chance of success. As I say, the global financial crisis has hit tourism generally, so the shire will need to think carefully about the timing of when they go to the market again, but I still think that as a project it has a lot of potential.

Senator FERGUSON—Last time I was there was when the Public Works Committee was looking at the proposed new loading facility. I forget its name.

Mr Yates—Is it Rumah Baru?

Senator FERGUSON—Yes, that is right. Has that been completed? Is it all underway?

Mr Yates—Construction is well underway.

Senator FERGUSON—I think it was about four years ago that we approved it.

Mr Yates—It has been a long-running project.

Senator FERGUSON—It might even be more.

Mr Yates—It is probably closer to a decade, in total life, but I was out there a couple of weeks ago and I can report that the pylons for the bridge out to the island are in place and that the bags to build the island are in place. A lot of the steelwork is arriving. Construction of that is

going well. Mr Mihov-Nicotodis can give a more detailed brief on that as it falls very specifically within his area of interest.

Mr Mihov-Nicotodis—Yes, I can brief you on the progress of the Rumah Baru project. We have a head contractor working on West Island. He started in late April or early May with mobilising on site and establishing his construction site. We have an arrangement in place with him for using the quarantine station on West Island for part of his accommodation requirements. Currently, the construction is on schedule for an end of March 2010 completion. Most of the materials are on site, with the exception of the precast concrete panels, which are yet to be delivered on site. Most of the pilings of the bridge had been completed and the contractor is now starting the dredging for the main offshore island and parts of the channels for access.

Senator FERGUSON—Is he employing any locals?

Mr Mihov-Nicotodis—There is local employment. It is limited at this stage because most of the local employment will be towards the end of the construction of the offshore island, when the facilities will be built mainly on the offshore island and on West Island. Also, part of the upgrade of the access road will involve a lot of the local workforce. There is a significant economic impact on the local community because most of the light plant and equipment is hired from the local shire. All the vehicles used by the contractor have been hired from local business. The co-op is providing meals. They also have a contract for cleaning up the premises the contractor is using and also part of the contractor's accommodation is done through the co-op. So there is a significant economic impact.

Senator CROSSIN—Chair, will we be getting the department back towards the end of the inquiry?

CHAIR—Yes. That is certainly our intention.

Senator CROSSIN—Mr Yates, thanks for that. I just want to ask you some questions about where we are with trying to provide some support for AIOTA. The airline is owned by a family company on Christmas Island. Where are we in supporting that airline to increase the number of flights to four a week? I am wondering why we have not been able to give them at least one or two of those additional flights to help them get off the ground and improve the business acumen that they say they have.

Mr Yates—Thank you, Senator, for that. I will answer the question in two parts, if I may. We support their current operations from the north, using the Malaysia Airlines service, through a waiver of the landing fees at Christmas Island airport. While that is not a huge cost, it is nevertheless a cost that the Australian government agreed to waive because of the value we saw in their efforts to promote tourism from the north. Quite clearly, the scale of the population in South-East Asia and the connections with Europe suggest that a lot of the tourism development potential will come from the north rather than out of Perth. So that is a specific area of direct support that is provided. More broadly, the Australian government provides a substantial indirect subsidy of the other charges, such as the security clearance process and all the charges to do with the operation of the airport, and we do not come close to recovering the costs of the operation of the airport. That is the support that is provided.

Senator CROSSIN—But that applies to National Jet as well, or to any aircraft.

Mr Yates—Yes, it does. Regarding the second part of the question, you would be aware that they proposed a series of six flights to the mainland through an arrangement with OzJet. The department provided assistance there in clearing a technical legislative arrangement through the applied Western Australian Transport Co-ordination Act, where operators are required to have a licence. I should add that this act also regulates things like taxis. It is an act with a very broad scope. It was originally brought in to enable a taxi service to run on Christmas Island, but it also caught the domestic flight arrangements. We assisted them in the process of applying for a licence. They ran into a legislative difficulty—perhaps not so much AIOTA but OzJet—in that CASA considered that where a travel agent charters an aircraft from an air service provider, such as OzJet, the air service provider needs to have an Air Operator Certificate appropriate for the class of operation. My understanding is that this class of operation was seen by CASA as a regular public transport operation, not a charter. OzJet did not have their Air Operator Certificate endorsed for regular public transport operations to Christmas Island, so OzJet, after discussion with CASA—as I understand it, because we are not specifically responsible for this area—chose to discontinue those operations. The last three of the six were in fact conducted by Cobham, who do hold an Air Operator Certificate with regular public transport clearance for the islands.

Senator CROSSIN—Do you mean Cobham on behalf of AIOTA?

Mr Yates—Yes, that is correct. I have had no further advice from AIOTA in terms of requests for licences under the Transport Co-ordination Act.

Senator CROSSIN—But did they know you were going to increase the flights to four a week?

Mr Yates—AIOTA? I do not know. We did not specifically advise them.

Senator CROSSIN—So you didn't say, 'We need to increase the flights; are you interested in picking up one of them?'

Mr Yates—No, because the existing contractual arrangement that we have with Cobham had specific ability for us to increase the flights through them. I might note here that because Cobham's flights are done as regular public transport flights, they are open to any travel agent, including AIOTA, to make bookings on them and get access to the commissions that are paid to travel agents when they make flight bookings.

Senator CROSSIN—Sure. But AIOTA is more than a travel agent. They have got aircraft they want to run. They want to get a market into the air service, don't they?

Mr Yates—My understanding at the moment is that AIOTA does not have any Australian aircraft and they do not have an Australian air operators certificate.

Senator CROSSIN—Is that because the arrangements with OzJet fell over?

Mr Yates—Presumably. As I said, CASA has recently issued a policy directive that makes clear that where a travel agent—and this is the wording they are using—uses a separate air

service provider to conduct flights, the air service provider has to have the appropriate air operators certificate endorsement.

Senator CROSSIN—And OzJet did not have that?

Mr Yates—OzJet did not.

Senator CROSSIN—But if OzJet got that—

Mr Yates—There would be no impediment to them doing that. Of course, as you know, OzJet went into administration and has since been purchased by another third party.

Mr ADAMS—What sort of aircraft is flown at the moment?

Mr Yates—There are two different ones that Cobham uses. The most usual one is called an RJ70. It is a four-engine, high-winged jet and it can carry about 77 people in its normal configuration, but because of the range requirements to get out to the Indian Ocean Territories, they will typically sell only 56 seats. There are minimum fuel requirements which we and everybody else is quite keen on them maintaining, for obvious reasons. On Saturdays they use one of the BAe 146-300 aircraft. To the outside observer they look very similar, but there are some technical differences inside. That is a larger aircraft but it has a shorter range. It can do the Perth-Learmonth-Christmas Island leg satisfactorily, but Perth-Learmonth-Cocos is—

Mr ADAMS—What do they carry in the hold?

Mr Yates—Up to around three tonnes of freight can be carried on the Saturday service. That is the BAe 146-300. On the Monday, Wednesday and Friday service it is much more limited to around a tonne, but that figure varies with the fuel requirements. It can be reduced to 600 kilos if weather is such that they need to carry additional fuel. This is one of the big drivers why we put the additional flights on, because Christmas Island was consuming huge amounts of air freight and that was having an impact on Cocos. Because of the contractual arrangement we have got, we were able to put the additional Wednesday service on and insist that Cocos received a certain minimum amount of air freight so that they were getting the perishables, with the bulk of the air freight for Christmas going on the Saturday aircraft, which can carry substantially more freight. I might note here that Immigration has also run freight charters to meet the surges that they have—again to attempt to reduce the impact on the local community.

Mr ADAMS—Thank you.

Senator CROSSIN—AIOTA runs the international air service—

Mr Yates—That is correct.

Senator CROSSIN—You keep referring to them as a travel agent; I keep referring to them as an airline service, I suppose, so maybe you could clarify that understanding, and then they must have an arrangement with some business or aircraft to fly down from Malaysia. I am wondering what is stopping their impediment from using that aircraft to fly down to Perth.

Mr Yates—In terms of the arrangement with Malaysian Airlines, the detail of that is a matter for them. We do not have visibility on that. The rules governing international services are different from those covering domestic jet services. Those are questions more properly posed to CASA, who can give you the definitive answers. They are governed somewhat differently. In the Christmas Island there is an open international airport, so any international airline with landing rights in Australia can go to Christmas Island. Malaysian Airlines has that right, so there is an arrangement between AIOTA and Malaysian Airlines for that. I am not privy to the details of that, because that is a matter between AIOTA and Malaysian Airlines.

There is, as you are aware, the cabotage issue, which is a restriction on the ability of an international non-Australian airline to carry domestic passengers. So a Malaysian Airlines flight that went from Kuala Lumpur to Christmas Island and then on to Perth could not carry a domestic passenger originating in Christmas Island. They could obviously carry someone whose journey originated—

Senator CROSSIN—Is there any movement to get that changed in respect of Christmas Island?

Mr Yates—That is a matter that falls more in Infrastructure, Transport, Regional Development and Local Government's area. There are the various reviews that have been done on air services.

Senator CROSSIN—Have you made representation?

Mr Yates—We have made representations on that matter.

Senator CROSSIN—Without success, I take it?

Mr Yates—I understand they are still in consideration, but at the moment cabotage rules remain in place.

Senator CROSSIN—We might ask some questions about that during this inquiry. I take it there is still no movement on the appointment of an administrator for the islands?

Mr Yates—The matter is under active consideration by the government. I cannot say further than that at this stage.

Senator CROSSIN—What is the current arrangement?

Mr Yates—We have an acting administrator, Mr Steve Clay. He is on Cocos and Christmas islands. I think he leaves Cocos today to go back to Christmas Island. He has been discharging the role of the administrator and in particular was asked to get the first meetings of the economic development consultative committees going, amongst other matters that the administrator deals with.

Senator CROSSIN—What is his background?

Mr Yates—Mr Clay works for me running the strategic plans and policy section. He has had extensive experience with Indian Ocean Territories for a number of years and is well known to both communities.

Senator CROSSIN—Is he able to act independently as the acting administrator?

Mr Yates—He remains a Commonwealth public servant so is still governed by the rules of the Public Service Act but he has been doing a direct reporting role representing the minister and the communities and making representations back to the minister's office on this. Clearly, as a Commonwealth public servant, his status is not the same as a substantive administrator.

Senator CROSSIN—Has he played any role in the latest racial tensions that have been happening on Cocos Island?

Mr Yates—He was on Cocos Island at the time and immediately engaged with the shire council, particularly with the shire president and the councillors, to discuss the handling of this and how they can work through those issues. I do not have detailed knowledge of his discussions with them. I am aware that he treated it extremely seriously and immediately spoke with the shire president and the elected members of the council and he has also been speaking with the members of the co-op on the issues.

Senator CROSSIN—Has he made representation to the minister about it?

Mr Yates—Not that I am aware of at this stage.

Senator CROSSIN—If he did, would it have to go through you? How does it work?

Mr Yates—It would not have to go through me. He has certainly kept me informed about his actions, as in the normal course of business.

Senator CROSSIN—What steps is the department taking now with regard to the situation that has developed on Cocos Island?

Mr Yates—We are continuing, as we have done, to support the cultural activities on the Cocos (Keeling) Islands.

Senator CROSSIN—I am asking for something a bit more than that. The cultural activities are going to continue no matter what the current tension is on the islands. I wonder if there has been some more proactive role either in suggesting the procedures cease, essentially, or that you work through with a community group to understand why it is happening.

Mr Yates—I think this is one where the administrator's role is extremely important, and that is what is being undertaken by Mr Clay, to help the community to work through these issues. In terms of the internal operations of the shire and the co-op, I note that both the shire and the co-op have significant Cocos-Malay representation in their elected members on the shire and of course the co-op is there for the benefit of the Cocos-Malay people. We provide financial support to the shire and we will respond to any requests from the shire for assistance on that matter. In terms of

the internal industrial matters within the shire and the co-op, they are matters for both the shire and the co-op to deal with in their existing structures

Ms BURKE—Can I clarify under what legal status, under what provisions, the shire and the co-op operate. Normal councils would operate under state legislation.

Mr Yates—The shire of Cocos—and of Christmas for that matter—operates under the applied Western Australian Local Government Act. The coop operates under an older structure that came from the origins of the islands. It is an ordinance that we manage, which is a specific incorporated bodies ordinance that governs the operation of the cooperative.

Ms BURKE—So you are not aware of any actions by the state government in respect of the shire's activity on this one or breaches of perhaps racial discrimination legislation that you might be verging on, given what was on the front page of the *Australian* the other day?

Mr Yates—The WA state government has no authority in this one.

Ms BURKE—Even though, technically, there is the act? It is one of those things that we have blurring with all of these.

Senator CROSSIN—There is an SDA with the government in respect of all of these issues.

Mr Yates—That is right. The legislation is applied but it is Commonwealth legislation. We have a service delivery agreement with the relevant WA government department that provides support to the councils. They provide continuing support to both councils in developing the capabilities of their elected members. The elected members and staff go to Perth on a regular basis for training that is provided by the local government department.

Ms BURKE—But if you were going to pull something in from council it would have to be done by the A-G?

Mr Yates—Yes.

CHAIR—As a quick follow-up to that: if the Commonwealth wanted an external audit of the shire council to be conducted, what would the relevant power in Commonwealth legislation be?

Mr Yates—The relevant powers would come from the applied Western Australian act. As I said, it is an applied Western Australian act, in this case the Local Government Act, so it is a Commonwealth piece of legislation. The powers there are vested in the Minister for Home Affairs. If something like that were to progress, a recommendation would go through the department to the minister on what might be done under the relevant WA legislation.

CHAIR—No recommendation relating to recent affairs on Cocos has gone forward?

Mr Yates—No, not at this point.

Senator CROSSIN—I want to go back to that, Mr Yates. If you have a look at the article we are referring to, you will see there has been an allegation of an underpayment of \$150,000 and

allegations of some very severe racial tensions. Given that we fund the council, I think it is a pretty serious matter for the Commonwealth. I suppose there will be an investigation into this alleged underpayment. If it is proven to be true, I do not know whether the council have the money or whether they would be coming to the Commonwealth to ask for it, but certainly for me the racial tension that has developed on the island is incredibly worrying. In 11 years in this job I have not known it to be as bad as that. I am trying to get a sense from you of whether the department has acted immediately and proactively to move into the community and assist with some sort of negotiated resolution of what is going on up there.

Mr Yates—Those are the actions that are being taken by Mr Clay at the moment. He has been doing that since the article came out. He was on the island, as I said. He immediately went and spoke to the elected members of the council and has been working with them on how we can help and what we can do—and we cannot do all things—to assist the community there. I have not yet received further advice from him. He may choose to send that to the minister. I need to get that information to determine an appropriate course of action. In terms of the allegations of underpayment, these are really matters that are governed—

Senator CROSSIN—I understand that.

Mr Yates—by the existing industrial arrangements and should be pursued through those in the first instance.

Senator CROSSIN—Yes. Is Mr Simms's contract as CEO of the shire council still due to finish fairly soon?

Mr Yates—I am not precisely aware. I believe he has until around the middle of next year. Again, I do not have the exact details of his contract. That is a matter between the council and him.

CHAIR—If it all right with members, we will continue the hearing till 20 to two but then we will have to close the public hearing because we still have some business to progress in a private meeting.

Senator CROSSIN—I would like to put two questions on notice initially, but I have a few more. Firstly, given that the climate change risk has now been done by the consultants, Maunsell AECOM, in respect of the AIOTA, what does the department now do with this report? Where do you take this report and its findings—into any sort of translated action, policy change or operational change? You may not need to write back to us but perhaps you could get ready to answer that question the next time we meet.

Mr Yates—I would certainly be very happy to answer that with the next lot.

Senator CROSSIN—Secondly, I know that the Cocos Islands had a Vision 2010 document that was developed by the shire council. I also know from the submissions we have received and from my contact with people that that Vision 2010 document has not been updated by a new document. What impact does that have on your forward planning with regard to works, assistance and support if the shire does not replace that strategic plan with another one? Those are the two questions I wanted to ask.

Mr Yates—We will take those for the next meeting.

Senator HUMPHRIES—I have a quick question about the ACIL Tasman report. I might have missed this information when I was out of the room. Is this still under active consideration by the government?

Mr Yates—It is under active consideration. We use it to inform our policy development. I just need to note that in doing so we need to recognise that the report was done prior to the impact of the global financial crisis, and it also did not account for the effect of the increase in immigration activity that has taken place. We now have empirical evidence of the benefits and the opportunities that that provides, as well as some of the challenges that provides. It is a report that was done at a particular time and it needs to be read in that context.

Senator HUMPHRIES—Sure. I assume that the comments they make in the report, though, about the need for a long-term strategy of economic diversification would still hold.

Mr Yates—Yes. They are still equally valid.

Senator HUMPHRIES—It recommends establishment of a development corporation for the territories. That is obviously not a matter that we can say is likely to happen at this point, but does the report contemplate that the Commonwealth would need to contribute to the cost of setting that up, or would that be a matter that the territories would have to fund for themselves, and fund out of possible economic downstream benefits?

Mr Yates—I think that is actually a very key question. The level of government contribution is a matter that is really still within government at this stage. We need to find a way to have an effective partnership between what the Commonwealth can reasonably do that does not have the effect of constraining or preventing economic opportunities that the private sector should pursue. The way I try to view it is that our role is to provide an environment that is attractive for investment and enable investments to proceed. We are having some success—as I mentioned, the bottled water initiative is an example of a small niche operation that could offer some high-value returns for relatively modest private sector investment. We have had a role clearly in facilitating access to the water, providing the relevant regulatory approvals for that, facilitating access to land within the government's disposal policies and so on. So we have a role there, but I do not see that it is our role to go and try to actively find what those opportunities are, but to provide an environment where they can grow and succeed.

Senator HUMPHRIES—Does this report talk about taxation issues on the island and how different it should be from the Australian mainland?

Mr Yates—Only in recognising that there is a difference in that the GST is not applied. I do not believe, from memory, that it canvasses in any great detail other opportunities there, because essentially the government's policy on that is quite set.

CHAIR—As to the broad sweep of Commonwealth services provided on Cocos and Christmas islands, are you able to attribute a cost across Commonwealth agencies and departments to the services provided, and, to go a step further, a breakdown in those costs? Do you have any analysis that shows the changes to those costs on an annualised basis?

Mr Yates—I think those are important questions that I would like to take on notice.

CHAIR—That is fine.

Mr Yates—Yes, I think I would need to take those on notice; otherwise my answer would be too speculative at this point.

CHAIR—Probably an even more complex question is this: I know that, in your efforts to respond to queries by a number of our members today, inevitably it is a regulation or it is under the jurisdiction of another agency and department. To what extent does the Attorney-General's department in their administration of the island take a lead role in those interactions? Are you kept briefed on determinations by other agencies and departments with respect to the external territories? I know it is not necessarily the most efficient approach. I am just thinking that, from the perspective of the residents on the island, it has got to be a bureaucratic nightmare.

Mr Yates—We try to take an active leadership role to the extent that we are able to. You would appreciate that we need to navigate our interactions with other agencies—where they have the policy lead—carefully, and we do that. We have particularly effective arrangements in liaison with Immigration at the moment; those are working very well. We also have very strong relationships with Environment, and people like the AFP and Customs and the remainder of the border protection area. We are developing relationships with the broadband area, because we do see that as an area where we need to seek to influence policy, to the extent that we are able to, from a national perspective. We retain good links with the people in Infrastructure because of our origins there but, again, we are actively engaged with them on air service matters to seek to put advice on policy from our viewpoint. Certainly, the interaction of Commonwealth and state applied legislation is complex. Unfortunately I cannot see a simple solution to that because the Commonwealth does not wish to try and develop a body of state equivalent law itself. Given that, then you have little choice but to use the implied Western Australian legislative regime and, by and large, it works quite effectively. There are times, though, when it is complex.

CHAIR—Thank you very much for your evidence here today. If you have been asked to provide any additional material—and I know you have taken several questions on notice—it would be very helpful if you could forward it to the secretariat by 2 September. I declare this public hearing closed.

Committee adjourned at 1.38 pm