



PHOSPHATE RESOURCES LIMITED

JOINT STANDING COMMITTEE: NATIONAL CAPITAL AND EXTERNAL TERRITORIES

“INQUIRY INTO GOVERNANCE IN THE INDIAN OCEAN TERRITORIES”

SUBMISSION BY PHOSPHATE RESOURCES LTD (PRL):

- *the role of the Administrator and the capacity (and appropriateness) of the Administrator taking on a stronger decision-making role:*

In respect of Christmas Island, the Administrator is appointed under the Administration Ordinance 1968 by the Governor General.

The Ordinance provides little embellishment of the role of the Administrator other than the exaltation “*to administer the Territory on behalf of the Commonwealth*” and the admonition that “*The Administrator shall exercise his powers and perform his functions in accordance with any instructions given to him by the Minister.*”

The Minister and the Governor General are authorised to delegate, by instrument, powers to the Administrator.

In practice it has been very unclear what delegations have been issued and what, if any, powers have been vested in the Administrator.

In particular, it is not clear as to the authority of the Administrator in respect of the activities of the public servants operating in the Commonwealth Department reporting to the Minister with portfolio responsibility for the Christmas Island Act 1958.

It would be our submission that the Administrator ought to be clothed with the authority of a Deputy Secretary of the relevant Department. They should have the authority, on behalf of the Minister, to administer the activities of the officers in that department engaged in the provision of services and policy development in respect of the Indian Ocean Territories.

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

As a consequence of the Territories Law Reform Act 1992, the implementation of the applied Western Australian laws regime was inserted into the Christmas Island Act 1958. In accordance with section 8G of the Christmas Island Act, the Minister is responsible for the exercise of all discretions granted under W.A. legislation to a Minister or statutory officer.

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It is our further submission that a large proportion of these responsibilities can be properly delegated under that section, by instrument, by the Minister to the Administrator. This would free up the Minister to concentrate on major policy considerations. The Administrator being “in situ” could readily determine these largely administrative items on the Minister’s behalf, obtaining advice, where required, from W.A. departmental officers under the existing service delivery arrangements.

In our view, unless the Administrator is invested with significant responsibilities beyond the current largely ceremonial functions and given a meaningful and practical role it may become increasingly difficult to continue to attract high calibre individuals to accept the post.

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

- *opportunities to strengthen and diversify the economy, whilst maintaining and celebrating the unique cultural identity of the Indian Ocean Territories.*

PRL would submit that this item in respect of Christmas Island is not capable of being meaningfully advanced until the Commonwealth as a whole makes an overt public determination as to whether or not it will categorically support and sponsor economic development outside the boundaries of the National Park.

The National Park comprises some 65% of the Island which is, if properly funded and administered, more than sufficient to ensure the protection of endemic fauna and flora species on island and the maintenance of a fully representative environmental example for the benefit and enjoyment of future generations.

The government needs to determine, whether or not, (in the words of the current Prime Minister when speaking about Tasmania), “it needs to be an economy as well as a National Park.”

We have sought without success such a decision from successive governments over the past twelve years.

If the determination is made and is positive then it is fundamental that mechanisms be put in place to enable land to be released allowing development projects to be effected.



Although the primary mining lease under which PRL operates has been extended until 2034 it needs to be understood that, without access to additional vacant crown land, on current parameters, it is unlikely that the operation will be commercially viable beyond the early twenties.

PRL is actively sponsoring research by Murdoch University into post mining land use. The Commonwealth is also providing some of the funding through regional development grants. While having scientific value, the whole exercise is likely to be otherwise futile if land is not going to be made available for commercial purposes.

In 2009, the Department with the assistance of GHD developed a Crown Land Management Plan establishing land uses for those areas of Christmas Island outside the National Park. This work subsequently formed the basis in 2012 of a new Town Planning Scheme No.2 being prepared by the Shire of Christmas Island.

To date, no final endorsement of the Crown Land Management Plan or the Town Planning Scheme has been effected by the Commonwealth Government.

Further, such an endorsement would be ineffectual unless a mechanism is developed to enable Crown Land to be released to the private sector to allow projects that have community support to be progressed.

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

It is also our submission that if the government does adopt and announce a positive view towards economic development on Christmas Island then some current infrastructure shortcomings need to be urgently addressed.

Firstly, Christmas Island has a need for urgent funding of an airport upgrade to full firefighting capacity so that it reaches Regular Passenger Transport status enhancing the ability to attract international commercial flights. Secondly, it also needs the provision of a proper, fit for purpose, marine crane to allow the use of larger and consequently cheaper supply ships. These upgrades are, in our view, an essential precursor to any realistic alternative economic development being undertaken.

If provided they will make the island more accessible and attractive to investment and concurrently assist in the reduction of Island living costs.



- *existing consultation mechanisms undertaken by government representatives, including the IOT Regional Development Organisation, and best practice for similar small remote communities' engagement with Australian and state governments;*

PRL simply notes that the existing RDO cannot operate in an effective manner until the issues advanced in the previous item are determined.

As presently structured the RDO lacks the ability to properly engage and stimulate projects that truly contribute to building capacity in the economy. It has operated on an ad hoc basis largely to advise on the distribution of a regional allocation which have taken a form essentially of being community development grants. Mintope has been the only project with an objective of advancing some alternative economic development that has been recently funded.

- *local government's role in supporting and representing communities in the Indian Ocean Territories*

We are concerned that limited Commonwealth funds are not wasted in the administration of governance functions for a Christmas Island community of less than 2000 persons.

Accordingly, we would support a careful review of the delivery of services on Christmas Island by the Shire and the Department. This review should be directed to ensure that wherever possible duplication should be eliminated and functions undertaken so that each employee is being fully engaged.

If surplus capacity and hence cost savings can be identified in such a process the funds saved should be directed towards the capital and operational requirements outlined above in the second item that was addressed.

Kevin Edwards
Chief Operating Officer

25 March 2015