



**Australian Government**  

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**Attorney-General's Department**

**SUBMISSION TO THE  
JOINT STANDING COMMITTEE INQUIRY  
INTO THE CHANGING ECONOMIC ENVIRONMENT  
IN THE INDIAN OCEAN TERRITORIES**

**JOINT STANDING COMMITTEE  
ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES**

**Territories and Information Law Division  
Attorney-General's Department  
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# 1. Overview of the Indian Ocean Territories

The Indian Ocean Territories (the Territories) comprise Christmas Island (2,650 km north-west of Perth) and the Cocos (Keeling) Islands (2,950km north-west of Perth and 975km south-west of Christmas Island).

The Territories are small and remote Australian assets supporting modest populations of distinct heritage: Chinese, Malay, Cocos Malay and European.

The ethnic composition of Christmas Island is 60 per cent Chinese, 15 per cent European and 25 per cent Malay. Many of the Islanders were originally brought to Christmas Island as indentured labourers to operate the phosphate mine.

The Cocos (Keeling) Islanders are made up of Europeans, located on West Island, and Cocos Malays, located on Home Island. The Cocos Malays are descended from people brought to the Cocos (Keeling) Islands in the 19th century from Malaya, East Africa, China, Java, India and Ceylon. They are predominantly Malay, speak a local variant of Malay, known as Cocos Malay, and follow the Islamic faith.

On 6 April 1984, the Cocos Malay people voted for integration with Australia in an Act of Self Determination which was witnessed by the United Nations Visiting Mission appointed by the Secretary-General. The Australian Government made a commitment to raise the standard of living of the Cocos Malay community and the standards of government services in the Territory up to Australian standards by 1994. The 1993 Commonwealth Grants Commission enquiry concluded that the level of service was 'now at or very close to mainland standards'.

The majority of the land other than certain areas on West Island reserved for Commonwealth use and the former Clunies-Ross family home on Home Island, is held in trust. The Shire of the Cocos (Keeling) Islands is the trustee. The land was transferred through two trust deeds dated 29 July 1979 and 18 September 1984 which specified that the land was to be 'held in trust for the benefit, advancement and wellbeing of the Cocos Malay community'.

At the time of the 2006 Census, the populations of Christmas Island and the Cocos (Keeling) Islands were measured at 1,348 and 572 respectively. Anecdotal evidence suggests that the Christmas Island population may now be somewhat lower than that reported at the 2006 Census, while the population of the Cocos (Keeling) Islands has remained stable.

The communities of Christmas Island and Cocos (Keeling) Islands maintain family and business links with Malaysia.

The Australian Government, through the Attorney-General's Department (the Department), provides the essential services to the communities of the Territories that would normally be delivered by state-level governments elsewhere. Services delivered include electricity, freight and passenger ports, ferry services, education, land and asset management, environmental and industry regulation and health. Services are delivered through contracts with the private sector, service delivery arrangements (SDA) with the Western Australian (WA) Government, or directly by the Department.

The Department works towards provision of 'state-level' services that provide communities of the Territories with the same rights and responsibilities as comparable communities on the mainland. These services are largely provided through SDA between the Australian Government and the WA State Government.

The Territories, on occasion, have access to additional programs and services than comparable WA remote communities. As an example, the Australian Government spent \$4,724.45 and \$5,269.62 per capita on education in 2005/06 in Christmas Island and the Cocos (Keeling) Islands respectively. Comparing this figure to the 2005/06 for WA education, the WA Government spent \$1,291.61 per capita and the Northern Territory Government spent \$2,098.05 per capita.

Residents in the Territories have access to transport to and from the Islands year round. The Australian Government also continues to ensure freight delivery of essential foodstuffs during the swell season, sometimes referred to commonly as the wet season, by subsidising air freight deliveries when there are extended periods of non-delivery by ships.

On 20 March 2008, the Minister for Home Affairs, the Hon Bob Debus MP, tabled the Commonwealth Grants Commission report on the Territories. This was a review of the costs of providing state-type services to the Territories. The report concluded that due to the fragile economic base and the potential for significant structural adjustment in the next few years, the longer-term economic and social development of the Territories should be considered by the Australian Government.

Within this context, the Department will address the Committee's terms of reference.

## 2. Governance

### Legal Framework

#### Overview

Christmas Island and the Cocos (Keeling) Islands are Territories acquired by the Commonwealth under section 122 of the Australian Constitution. The Territories were accepted by the Commonwealth through the *Christmas Island Act 1958* (Cth) (the CI Act) and the *Cocos (Keeling) Islands Act 1955* (Cth) (the CKI Act), respectively.

The current legal framework in the Territories was established by the *Territories Law Reform Act 1992* (Cth) (the Law Reform Act) which amended the definition of “Australia” in the Acts Interpretation Act 1901 (Cth) to include CI and CKI. This means that any Commonwealth legislation that applies to Australia (in a geographical sense), also applies to the Territories. However, some Commonwealth legislation may expressly and intentionally exclude the Territories.

The Law Reform Act also provided a body of modern State laws to replace the colonial laws which operated in the Territories. This was achieved by inserting section 8A into the CI Act and the CKI Act. Section 8A applies the laws in force in WA from time to time to the Territories. Laws applied under section 8A are subordinate Commonwealth laws.

Under the applied laws scheme, a list of new laws must be tabled in Commonwealth Parliament every six months. Either House of Parliament may terminate the application of a new law by passing a motion.

WA laws applied in the Territories may also be amended, repealed or suspended by an Ordinance made by the Governor-General. The Governor-General may also create Ordinances for the peace, order and good government of each Territory under sections 9 and 12 of the CI Act and the CKI Act, respectively.

#### Delegations under the applied law scheme

The powers and functions contained in the applied laws are vested in the Minister with responsibility for Territories under section 8G of the CI Act and the CKI Act. The Minister may then delegate or vest these powers to the IOT Administrator, Commonwealth and WA Government officials. WA Government Ministers have not been delegated any powers under the applied laws. The most common delegation is from the Minister to WA Government officials.

#### Local Government

The Shires of Christmas Island and Cocos (Keeling) Islands operate under the applied *Local Government Act 1995* of Western Australia. The Shires were established in 1992.

The roles and responsibilities of the Shires are consistent with those for local government in Western Australia.

Like mainland councils, the Shires receive revenue through rate collection. The Australian Government recognises the limited capacity of the Shires to raise revenue through rates. Although the Australian Government is not obliged to pay local Government taxes including rates, the Department pays an equivalent amount for its properties.

Unlike mainland councils, the Shires are not eligible to receive funding under the Financial Assistance Grants (FAG) funding managed by the Department of Infrastructure, Transport, Regional Development and Local Government. However, the Shires receive equivalent funding from the Australian Government through the Territories Administered budget, calculated by the WA Local Government Grants Commission (WALGGC). The WALGGC assesses the needs of each Shire and recommends to the Australian Government an appropriate amount of FAG-equivalent funding using the same method it uses to determine appropriate funding for WA local governments. The FAG-equivalent funding constitutes the bulk of Shire funding and is untied.

When recommending an amount of FAG-equivalent funding, the WALGGC has considered the specific circumstances of each Shire and the relative differences between it and the “average” local government in WA. This process is known as horizontal equalisation. The amount determined by this calculation is then “factored back”, to reflect the limited amount of funding available for states to distribute to their local governments. The factor back rate for WA is also applied to the Shires and was 98.46 per cent for 2007/08. Where a Shire is disadvantaged compared with other local governments, the WALGGC may use a disability factor to increase FAG funding as compensation. For example, both Territories’ Shires receive significantly more funding than similar WA local governments to compensate for the additional costs caused by their isolation. However, the WALGCC is currently undertaking a full review of its funding methodology to address criticisms that have been made by local governments. It is not yet clear what changes to its methodology the WALGCC may implement as a result.

Broadly, the range of grants available to the Shires is comparable with that available in Western Australia.

The Australian Government is committed to taking a cooperative, transparent and professional approach in working with the Shires to deliver the full range of local government services. Additional support is provided to recognise the unique governance, cultural and linguistic requirements in working with the Island communities and the need to develop local skills and capability.

### 3. Economic Profile

#### Christmas Island

The Christmas Island economy is dominated by phosphate mining. The 2005/06 gross product for Christmas Island was estimated at \$71 million of which 34 per cent was contributed by mining activities.

Phosphate Resources Limited, which operates the mine, employs approximately 180 people on Christmas Island. Another 15 people are employed by a stevedoring company that relies predominantly on mining activity. Despite fluctuations in the market for phosphate, mining employment on Christmas Island has remained fairly stable.

A further 28 per cent of gross product was contributed by service activities including Government services and the Island's fledgling tourism industry. Government services including administration, health, education and environmental management also provide employment for the Territories.

The level of economic activity on Christmas Island tends to fluctuate through time. Large scale construction projects (such as the construction of the Immigration Reception and Processing Centre) or other large projects (such as the now-closed Christmas Island Resort) inject comparatively large figures into the local economy, and highlight the dependence of the economy on special projects or events. Such projects have tended to maintain the Christmas Island economy, but through a boom-bust cycle.

The expected closure of the Christmas Island phosphate mine (scheduled to take place sometime before 5 February 2019) will result in another decrease in the size of the local economy. Due to the global financial crisis, the customer base for Christmas Island Phosphates has dramatically reduced. There is one shipment of phosphate scheduled from the Island in the first half of 2009. There was a six week close down at the beginning of 2009 and the company has not ruled out further close downs if the market for phosphate remains depressed. This shows the fragile nature and strong linkages the Christmas Island economy has with the phosphate commodity market.

The Australian Government is committed to supporting the economic and social well being of the communities in the Territories and the Department is working with local groups to assist in the transition to alternative industries. Tourism provides some employment in the Territories, and is seen as offering the greatest potential for economic growth.

In December 2007 a community workshop, hosted by the Department in partnership with Christmas Island National Park, Christmas Island Tourism Association and the Shire of Christmas Island, explored concepts for developing Christmas Island as a tourist destination.

The Department of Immigration and Citizenship has recently increased activity as additional public servants and private contractors have been brought to Christmas Island to participate in immigration detention and screening activities for unauthorised

boat arrivals. This increased activity has positively impacted on the economy of Christmas Island.

## **Cocos (Keeling) Islands**

The Cocos (Keeling) Islands economy is dominated by the service industry, particularly Government and tourism services. The 2005/06 gross product for the Cocos (Keeling) Islands was estimated at \$15 million of which 42 per cent consisted of service activities. The Cocos (Keeling) Islands' economy is dependent on the economy of Christmas Island through critical links such as health services and air and sea transport.

The Cocos (Keeling) Islands Co-operative Society Ltd is the main employer of Cocos Malays (along with the Shire Council). It is responsible for the management of the supermarkets on Home and West Islands and the current public transport service on behalf of the Australian Government. The Cocos (Keeling) Islands unemployment is 8.11 per cent (ABS 2006 Census Data). Anecdotal accounts suggest real unemployment may be higher than this, particularly in the Cocos Malay community where it is estimated to be over 60 per cent. This compares to West Island, where businesses often have difficulty obtaining skilled workers or trades people.



### **3. Economic Development: a Cooperative Approach**

The Australian Government is taking a role in assisting to develop the economies of the Territories to prepare for predicted future changes.

In December 2008, the Minister for Home Affairs appointed an Economic Development Officer (EDO) for the Territories. The EDO is assisting the local communities, industry and governments to build capacity and skills with a view to sustaining and developing business and other economic ventures.

The EDO will be assisted by an Economic Development Consultative Group for each Territory. The Groups will be chaired by the Territories' Administrator and will provide a formal link between the local communities and the EDO.

The main objectives of the Groups will be to support development and provide information to the EDO and disseminate information to the local communities on economic issues. The Groups efforts are to be directed towards: improving economic sustainability for the Territories, optimising allocation and use of resources, and providing information to the EDO on local conditions, matters and opportunities.

The Christmas Island Destination Development Report was completed in April 2008 following an on-Island workshop in December 2007. The Report included the Christmas Island Destination Development Plan. This Plan aims to identify actions to increase the attraction of the Island with a focus on low volume, high yield tourism. The overarching basis for the Christmas Island Destinations project was to engage the community to enhance tourism's long term contribution to the economy of Christmas Island. An on-Island Steering Committee, chaired by the Shire of Christmas Island was set up to progress actions in the report. It is yet to formally report on outcomes.

The Australian Government is assisting the Shire of Cocos (Keeling) Islands to attract an experienced developer to build and operate a resort on West Island. The Shire has asked interested parties to submit a proposal for a resort. The Shire has received a number of proposals and is currently evaluating them.

#### **Community-based Initiatives**

The Australian Government promotes community development through numerous programs similar to those accessible on the mainland.

Since May 2001, the Australian Government has run a State-type Grants Program for the Territories. The Program is based on the WA model, and is assessed against the same eligibility criteria as if the applicant was located in WA. In 2006/07, 18 projects were awarded funding totalling \$479,121 under the Program. The budget for the Program in 2007/08 is \$800,000 and, as at 23 March 2009, 11 projects have been approved for funding totalling \$467,677.

The Australian Government operates an Economic Development Funding Program for the Territories. \$75,000 is allocated each year for each Territory. The Program seeks to promote economic development initiatives which will increase employment opportunities, improve skills, expand/upgrade infrastructure or increase community

capacity to become economically more sustainable. For the year 2007/08, 6 projects were approved for the Cocos (Keeling) Islands totalling \$74,008 and 6 projects for Christmas Island totalling \$55,298. To date, funding approvals for the 2008/09 financial year total two for the Cocos (Keeling) Islands totalling \$54,000. Christmas Island has not yet applied for any funding in the current financial year.

An SDA is in place with the Western Australian Small Business Development Corporation (SBDC) which seeks to provide independent information and advice to support existing and new businesses in the Territories. Service delivery has recently been reviewed and from early 2009 advice is being provided through a local agent based on Christmas Island. The EDO and the SBDC are working closely together to build local capacity.

The impact of the transition from the Area Consultative Committees to the Regional Development Australia programs on the Territories is still being assessed.

## **Infrastructure and Capital Works Funding**

The Australian Government also assists the Territories' economies through direct investment in infrastructure and capital works funding.

In October 2008, the Minister for Home Affairs announced the Australian Government would provide \$3 million for dual user pathways on Christmas Island and \$5 million for a new community centre on West Island, in the Cocos (Keeling) Islands. The pathways will form part of a network of walking trails linking natural and heritage attractions around the Island for use by both residents and visitors. This project will provide employment opportunities for the residents of Christmas Island and will also enable the Shire of Christmas Island to develop its capability for managing such projects. The community centre on West Island will address the sporting and community needs for the Cocos (Keeling) Islands.

In 2007, the Australian Government approved \$11 million for asbestos removal replacement and disposal for Commonwealth owned assets in the Territories. Works are expected to start in mid 2009 and will provide employment opportunities for local contractors.

Funding for the upgrade, repairs and replacement of Commonwealth assets associated with the capital works is generated through accumulated depreciation and amortisation of all Indian Ocean Territories assets. Current projections are that approximately \$16 million will be available annually from depreciation over the next five years.

The Department includes a provision in major contracts which encourage the service provider to use local subcontractors and local labour (trades persons, trades assistants and labourers) wherever possible. The service providers are also encouraged to explore opportunities for employment of the residents of the Territories. An example clause is, "The Contractor shall consult with the training officer on [Christmas Island or the Cocos (Keeling) Islands] concerning the availability of local labour (trades persons, trades assistants and labourers) and shall wherever possible, explore opportunities for employment of [Christmas Island or the Cocos (Keeling) Islands] residents who are suitably qualified and skilled to assist the Contractor to execute the work described in the contract documents.

## **4. Communications: Broadband Internet, Digital Television and Mobile Telephony**

The Australian Government's view is that telecommunication policies should apply equally to the Territories, where these policies provide for telecommunications services in rural or remote Australia. For the Territories to be sustainable and to meet Australian Government requirements, a robust telecommunication network is required.

The Regional Telecommunications Independent Review Committee assessed telecommunications services in regional, rural and remote parts of Australia. The Committee's report was tabled in Parliament on 15 October 2008. The Australian Government has now responded to the Report and on 5 March 2009, the Minister for Broadband, Communications and the Digital Economy, Senator Stephen Conroy, announced a number of measures to address telecommunications issues for regional Australia. Draft guidelines for the Digital Regions initiative will be released in July 2009 and a call for applications is expected in September 2009. States, territories and local governments will be eligible to apply to fund initiatives in health, education and emergency services.

### **Telephony and Mobile Telephony**

There is only limited market competition for telecommunications infrastructure and services in the Territories. Competition is important in providing consumers with alternatives and decreased cost; however, new providers may not view the Territories as an attractive commercial venture due to the remoteness, small consumer base and costs of infrastructure and service provision. Competition has the potential to decrease long term viability of services in the Territories for these reasons.

The provision of mobile telephone services to the Territories is the responsibility of the private sector.

A local digital mobile phone network operates on the Cocos (Keeling) Islands by a not for profit community organisation, CI Internet Association. Phones must be registered to access this service and may be hired locally and will be assigned a local phone number. Coverage is limited.

Christmas Island mobile phone coverage is limited to GSM access provided by Telstra. A visitor using a non-Telstra phone cannot access mobile services. Overseas visitors may access the service through their existing phone company using international roaming, provided their handset is compatible.

### **Broadband Internet**

The provision of internet services to the Territories is primarily the responsibility of the private sector. Broadband services in the Territories are generally available from the Christmas Island Internet Association. The Australian Government has a program, the Australian Broadband Guarantee, which subsidises the provision of metro-comparable services where such services are not available commercially,

including those premises which may fall outside coverage of the National Broadband Network. This program includes the Territories; however, as commercial broadband services offered by the Internet Service Provider in the Territories have been determined to be metro-comparable as defined under the Australian Broadband Guarantee, customers within coverage of that provider would not be eligible for a subsidised service under the current program.

Due to the remoteness of the Territories, internet and other forms of telecommunications currently rely on satellite. Satellite connections experience signal delays in transmission, or latency, which impact on the response time for internet and hence limit functionality for some applications. The cost of providing satellite connections to the Territories is also understood to be considerably higher than for equivalent services on mainland Australia.

The Attorney-General's Department is investigating means to improve the effectiveness and efficiency of the Australian Government's information and communications technology services on Christmas Island. Government users include: the Department, Department of Defence, Department of Immigration and Citizenship, Parks Australia, Australian Customs Service, Australian Quarantine and Inspection Service and Australian Federal Police. In developing this project, consideration will be given to improving the internet services to the community.

There are a number of proposals by private enterprise to lay a fibre optic cable between South East Asia and Western Australia. Initial investigations indicate that the costs to include Christmas Island are prohibitive. However, the Western Australian Government has an interest in the proposals and is seeking to develop partnerships to enable a cable to be laid, which may reduce costs.

## **Digital Television and Radio**

The Australian Government provides an analogue television and radio service to the Territories. Selected Western Australian television channels are transmitted to the Territories and converted to analogue for rebroadcast under a rebroadcast licensing arrangement. The service is provided as a community service by the Department.

Australian television broadcasting will be switched to digital format by 2014, therefore the Department will be required to switch to digital television broadcasting in the Territories by the end of 2013. As the existing analogue broadcast equipment is in need of upgrade or replacement, the Department is considering changing over to digital transmission prior to 2013. The Territories' communities will be consulted about this process.

## 5. Transport Services and Costs Including Passenger and Freight Transport

### Current Arrangements

Reliable transport services are vital to the viability of the Territories' communities. The cost and effectiveness of transport services are major factors in business activity in the Territories. The Territories' economies are closely connected through shared transport services.

### Shipping Services

Shipping is the major freight link to the Territories with food, consumer goods, fuel, plant and machinery all being shipped from Perth.

A submission by the Department was made in April 2008 to the Coastal Shipping Policy and Regulation Inquiry held by the House Standing Committee on Infrastructure, Transport, Regional Development and Local Government. The submission noted that shipping is a vital supply and transport link for the Territories and regular shipping is essential to the viability of the Territories' communities.

Christmas Island and the Cocos (Keeling) Islands are currently exempt from the coasting trade requirements in the *Navigation Act 1912* (Cth). This allows ships to engage in trade between the mainland and the Islands, and between the Islands, without a licence or permit for coastal shipping.

The Territories currently receive a single shipping service operated by Zentner, which leases the *MV Princess Mary*. The Ship sails a loop between Fremantle, the Cocos (Keeling) Islands, Christmas Island and Singapore. This cargo vessel visits the Territories approximately every four to six weeks. The cost of shipping a 20 foot container to Christmas Island is \$6,670 per container. The cost of shipping a 20 foot container to Home Island is \$9,880 per container; an extra charge of \$1,200 per container applies for containers shipped to West Island. Otherwise, containerised freights is charged at \$305 per cubic metre for Christmas Island and \$445 per cubic metre for the Cocos (Keeling) Islands.

The operation of shipping services is vulnerable to adverse weather conditions. During the "swell season" from December to April, high seas can prevent ships from loading and unloading at Christmas Island. During 2008, one voyage was affected by the swell. This voyage was aborted on 6 March 2008 and the next voyage returned to Christmas Island on 5 May 2008. This departure from the normal schedule was due to an array of mechanical, swell and other logistical problems.

During the affected period in 2008, the Department arranged for increased air freight capacity by running three special air freight charter services. The Department put in place a subsidy arrangement that allowed Island traders to air freight essential foodstuffs at sea freight costs which was to maximise the availability of essential foods during this time.

## Port Services

### Christmas Island

The Flying Fish Cove port is owned by the Commonwealth and port services are provided by Patricks under contract with the Australian Government.

The Harbourmaster, who is employed by Patricks, is the manager of the port and is responsible for all port operations. Everything below the low water mark outwards is the responsibility of the port. Pilotage, stevedoring and mooring services are provided by private companies under non-exclusive licences from the Australian Government.

Physically, the port is unusual, difficult and potentially dangerous. Vessels are not tied up to the land. They are moored to very specialised 'deep sea' mooring buoys which have the holding power and flexibility to allow vessels of up to 190 metres (35000 dwt) to berth. Mooring vessels in this way is not always possible — it is restricted by inclement weather. The port cannot be classified as a 'safe port' in all weather conditions. An 'open roadstead port', it can be closed when weather conditions are moderately bad to severe. The port's northerly aspect exacerbates these problems. About 30 days a year are lost due to bad weather — mostly during the October to March monsoon period — when the wind blows from the north.

Nui Nui port is currently not operational because its crane is at Flying Fish Cove whilst that port's crane is refurbished. This 'emergency port' is east facing and is generally more accessible during the swell season. To date this port has had very little use.

In early 1997, the stevedoring operations were privatised. Stevedoring services are provided under three non-exclusive licences with the Commonwealth which includes a hire agreement for the use of Commonwealth owned port equipment (for example the port cranes in Flying Fish Cove and Nui Nui).

Port services are regulated by the Department through the application of Western Australian legislation. Services are funded by the Australian Government and charges collected for port usage. The current levels of port charges are:

- \$0.5 per Gross Registered Tonnage (Port Dues);
- \$50 per hour (berth hire);
- \$2.50 per tonne for bagged phosphate;
- \$10 per kilolitre for oil products from bulk tankers;
- \$70 for a full container; and
- about \$10 for an empty container.

These fees are based on those charged in Western Australia but fall short of recovering operating costs, before taking into account depreciation.

Apart from port charges, additional costs are also imposed for stevedoring services. The current charges levied are \$560 for a full container and \$240 for an empty container. These charges include pilotage, demurrage and hiring fees. Whilst they are considered by some to be high, stevedoring costs on Christmas Island have not increased since 1995.

## **Cocos (Keeling) Islands**

The Cocos (Keeling) Islands have very limited port facilities but rely heavily on marine services - notably the ferry service across the lagoon and for freight handling. The port is owned by the Commonwealth and port services are provided by Patricks under contract with the Australian Government.

The port infrastructure on Home Island comprises the wharf, the slipway and the crane. On West Island, the jetty is used for the passenger ferry service only, while freight is transported to the Island directly over a beach. A landing barge (a Co-operative asset) and a 'dumb' barge (a Commonwealth asset) are used to transfer containers from ships and between the Islands.

No unloading of freight direct from a cargo ship to the wharf can be undertaken because the waters are too shallow to allow this. The ship discharges its cargo onto the dumb barge *Jasa Cocos* - moved into position by the landing barge *Biar Berjaya* - in a deep part of the lagoon opposite Direction Island. Up to 30 containers can be carried at once by the dumb barge, but the usual consignment to the Cocos (Keeling) Islands is about 8 containers each time the ship visits. The landing barge then moves the dumb barge back to the Home Island wharf where the containers are unloaded.

Freight containers for West Island have to be destuffed on Home Island, and then restuffed to a weight limit of 17 tonnes so that they can be transported by the landing barge to the other side of the lagoon. The landing barge transfers one container at a time (mounted on a trailer on the deck) to a point just south of the West Island jetty where the trailer with the container on it is dragged across the beach by a bulldozer and then towed to the West Island community.

Diesel and airline fuel is freighted to Cocos twice a year. Fuel is transferred from the ship to the Shell tanks on West Island via a pipeline on the lagoon floor and then along the West Island jetty. Fuel for Home Island, including that needed for the power station, is transported in isotainers from West Island back across the beach to the landing barge to the Home Island Wharf.

In December 2008, the Australian Government announced the head contract was awarded for the project to construct the new passenger and freight handling facilities at Rumah Baru on West Island in the Cocos (Keeling) Islands. Construction on site is scheduled to start in April 2009 and is expected to be completed by February 2010.

## **Air Services**

The Territories currently receive two air services: a domestic service from Perth and an international service from Kuala Lumpur.

Since 1997, the Australian Government has underwritten the domestic air service between the Territories and Perth. The Australian Government identifies the provision of airline services as a critical component to the long term economic development of the Territories.

The domestic service operates twice weekly and flies between Perth, Christmas Island and the Cocos (Keeling) Islands. The service alternates between a clockwise loop on Friday and counter-clockwise loop on Monday. Additional services are often provided during periods of high demand, such as during school holidays and at Christmas.

Air freight delivers mail, perishable and other time-sensitive goods. Air is the sole method of passenger travel to and from the Territories.

Christmas Island receives an international service operated by Australian Indian Ocean Territories Airlines (AIOTA) using a chartered Malaysian Airlines aircraft. AIOTA flies from Kuala Lumpur to Christmas Island every Saturday.

On 2 December 2008, the Australian Government released an Aviation Green Paper for comment by 27 February 2009. The Attorney-General's portfolio provided comment on the paper. In summary, the submission noted that air services play a significant role in both economic development and service delivery in the Territories. The Green Paper states that there may be an economic case for foreign airlines carrying domestic passengers on routes which are not currently served by scheduled domestic airlines or which require a government subsidy.

The Department of Immigration and Citizenship (DIAC) operates occasional charter flights between Perth and Christmas Island to support its detention and processing activities on Christmas Island. DIAC has made spare freight capacity on its chartered flights available to the Christmas Island community to assist the delivery of fresh produce and mail. This service is subject to DIAC's operational demand and may not be available in the future.

Periodically, the Territories receive charter flights from a range of Australian and international locations.

## **Future Developments**

The current shipping service to the Territories operates on a commercial basis. A considerable amount of activity at the Christmas Island Port relates to the Christmas Island phosphate mine. Mine closure, and the accompanying contraction to the Christmas Island economy, is likely to reduce significantly the volume of cargo being shipped. It is not clear what effect a reduced volume of cargo would have on port services.

The air service contract was put to tender in 2008, but the process was interrupted by the selected operator going into administration. The existing contract has been extended for a year to allow the service to be put to tender again in 2009.



## 6. Commonwealth Government Legislative Services and Programs

### Australian Government Legislative Framework

Successive Australian Governments have agreed that the Territories are to be included in the coverage of Commonwealth legislation unless it would be inappropriate to do so.

The Australian Government's policy is reflected in section 17(a) of the *Acts Interpretation Act 1901* (Cth) which defines "Australia" to include Christmas Island and the Cocos (Keeling) Islands.

Agencies proposing new legislation or amendments to existing legislation are required to consult Territories West Branch if the changes will affect the Territories.

In some cases, Commonwealth legislation has been extended to the Territories, despite originally not applying. For example, the *Aged Care Act 1997* (Cth) and the *Education Services for Overseas Students Act 2001* (Cth) were amended to include the Territories. Both Acts make use of state-level structures and require the Territories to use the Western Australian administrative arrangements.

### Corporations Law

The *Corporations Act 2001* (Cth) does not apply in the Indian Ocean Territories. This may have implications for future economic development. It would be desirable for Corporations law to apply in the Territories as it is Australian Government policy to normalise the legal framework of the Territories. Commonwealth laws are intended to operate in the Territories as they do in the rest of Australia, unless they are specifically excluded from operation. The Department is exploring options to achieve this.

### Australian Government Programs

Similarly, some Australian Government funding programs are not available in the Territories.

Local governments in the Territories do not access the Financial Assistance Grant (FAG) funding provided by the Australian Government and available to their mainland counterparts. Instead, the Territories' local governments receive an equivalent payment from the Territories services budget appropriation. As a result they are unable to access many additional funding programs that are tied to the FAG process. For example, the Regional and Local Community Infrastructure Program distributed \$800 million to Australian local governments for infrastructure projects. The Territories' local governments were not eligible for this additional funding as it was tied to eligibility for FAG funding. An equivalent pro rata grant was made available to each Shire in the 2008/09 financial year out of Territories Administered funds.

Medicare funding is also not available to the Indian Ocean Territories Health Service as the service is funded from a separate budget appropriation through the

Department. As a result, the Health Service cannot access a range of funding programs linked to the Medicare system. For example, the Practice Incentives Program offers incentives for general practitioners in remote areas. The Program is based on the Medicare structure and is unavailable to doctors working for the Health Service despite working in a remote location.

Natural Disaster Relief and Recovery Arrangements do not apply in the Territories, nor do the Natural Disaster Mitigation Program or the Bushfire Mitigation Program. The Department considers requests which would normally be addressed through these programs on a case-by-case basis.

## **7. Special Factors Impacting on Business and Residents**

### **Remoteness of the Territories**

Through the EDO, the SBDC, and the Indian Ocean Group Training Association (IOTGA), the Australian Government is helping the Territories' communities identify business opportunities that take into consideration: the cost of establishment in the Territories, the demands and volume of the residents and visitors to the Territories, the investment capital required, and locality.

The isolation of the Territories, combined with their relatively small workforce, makes labour costs for "on-Island" positions high. Staff must often be sourced from the mainland as specialist skills may not be available in the Territories. This type of recruitment often involves the payment of relocation costs, holiday airfares and housing costs in the Territories.

To increase the skill base and to provide further educational avenues for residents of the Territories, the Australian Government funds the IOGTA. In the 2008/09 financial year, up to \$850,000 has been committed to meet the objectives of the Association. These objectives are: to employ apprentices and trainees and support their training and placement with employers in the Territories, to support the development of small business, to provide employment training programs for employers and employees in the Territories, to support unemployed people in their need for training to gain employment.

As discussed under 'Economic Development: a Cooperative Approach', the Australian Government has established the position of the EDO. The EDO has met with 70 individuals and organisations to date outlining his role and actively working with stakeholders to improve capacity, transfer skills and identify and develop economic opportunities.

### **Insurance**

The Department is aware of the difficulties that the Territories' residents experience in obtaining general insurance coverage for building, contents and motor vehicles, and understand the impediment this can cause, particularly for investing in the Territories. The Department is working with the Insurance Council of Australia to attempt to resolve the issue of providing insurance for property and vehicles on Christmas Island and Cocos (Keeling) Islands.

Preliminary enquiries substantiate that the Territories' remote location is an impediment to the insurance industry providing general insurance coverage due to the high operational costs incurred by insurance companies and the inability to meet requirements contained in the insurance policy documents and the Code of Practice in servicing this market. Government intervention, similar to that supporting Vehicle Third Party insurance, may be required.

Businesses and local governments can still obtain insurance.

## Environment and Heritage Laws

The *Environment Protection and Biodiversity Conservation Act 1999* (Cth) applies to all aspects of the Territories and impacts on the majority of operational work of the Department and can effect business.

Amendments made in the *Environment and Heritage Legislation Amendment Bill (No. 1) 2006* removes from the definition of Commonwealth Area, those areas within the Territories where a person holds a freehold interest in the land. Amendments will commence when the *Heritage of Western Australia Act 1990* (WA)(CKI)/(CI) is in force.

The Department is working towards the application of the law. This is not a simple process and will require negotiations for a SDA between the Department and the relevant WA Government agency and consultation with stakeholders and the community.

## 8. Cost and Availability of Housing

### Stamp Duty Concessions in the Territories

The First Home Owners Grant (FHOG) scheme was introduced nationally in July 2000 to compensate first home buyers for the increased cost of homes as a result of the Goods and Services Tax (GST). Under the scheme, eligible home buyers are paid a lump sum to assist in the purchase of their home. Though a national initiative, the scheme is based on state-level legislation. The Western Australian legislation is the *First Home Owners Grant Act 2000 (WA)* and this Act has been repealed in the Territories.

It is Australian Government policy that GST is not levied in the Territories. As the FHOG is intended to offset the GST, it is also Government policy that the FHOG is not available to Territories' residents. To enable Territories' residents who are first home owners to access the concessional rates of stamp duty, the *Duties Act 2008 (WA)(CI)/(CKI)* was amended by Ordinance on 1 July 2008. The Ordinance amended the eligibility requirements by replacing them with a requirement that a FHOG would have been payable as if the FHOG scheme applied in the IOT for first home buyers.

### Christmas Island

The Commonwealth owns 30 per cent of all residential housing on Christmas Island. Over half of this is rented out as public housing. Public housing is provided to those who are unable to afford market rent. Currently, there is no one waiting for public housing on Christmas Island.

The Department aims to maintain and upgrade the Commonwealth housing stock to the standards articulated in the WA Department of Housing and Works standards for employee and public housing. Although not all of the existing properties currently meet all of the standards, the Department, through a program of capital works, is undertaking works to meet the requirements.

All public and employee housing is maintained by local Departmental staff and contractors for repairs and minor maintenance. Open tender processes are undertaken for major works and capital refurbishment.

As the Commonwealth is the major land owner on Christmas Island, the Department is developing a Crown Land Management Plan. The Plan, which covers both Christmas Island and the Cocos (Keeling) Islands, is due out for public consultation in May 2009. The aim of the Plan is to assess the conservation, economic, cultural and social values of Crown land in the Territories. Once complete, the Plan will be used to inform decisions on the future uses of land in the Territories.

### Cocos (Keeling) Islands

The Commonwealth is not the major land owner in the Cocos (Keeling) Islands. Most land in the Territory is held in trust by the Shire of Cocos (Keeling) Islands and is not available to the Commonwealth for development.

The Department provides employee housing, almost all of which is located on West Island. The Commonwealth also owns other housing on West Island which is leased out at market-related rates to members of the public. There are two public housing properties on West Island.

There are approximately 100 houses in the Kampong housing precinct on Home Island, controlled by the Shire under the trust arrangements. The Kampong houses do not constitute the provision of public housing in the sense of a state-type service. However, the Kampong houses are let out to a similar rental market as those who would be given public housing on the mainland.

The Department has an on-Island representative to look after housing and other matters in the Cocos (Keeling) Islands. This role is similar to that of the Christmas Island Administration staff described above.

There is a broad housing shortage in the Cocos (Keeling) Islands, leading to inflated housing costs. Eligibility for public housing is based on the WA policy, consistent with 'normalisation'. Working families with an average income are not eligible for public housing yet are not able to afford suitable private housing. Consequently, an increase in public housing would not address this problem.

The Department's efforts are focussed on increasing the general supply of housing, as this will have flow on benefits for the Cocos (Keeling) Islands community. The Department is building several additional houses and preparing to release land at Buffett Close on West Island. The Department is also considering options for the former Quarantine Station, which includes four vacant houses. The Department is not considering public housing in these initiatives, as the priority is to ensure adequate housing is available for skilled workers in the Territory. A Crown Land Management Plan is being developed to formulate a long term strategy for this and other Commonwealth properties.

In 2004, the Australian Government (through the then Department of Transport and Regional Services) partnered with the Shire of the Cocos (Keeling) Islands in accordance with the guidelines of the WA Government's Joint Venture Housing Project (JVHP). The JVHP operates to foster the development of rental accommodation for people on low incomes and, in a typical arrangement, the WA Government contributes funds towards the construction of new properties, with the partner organisation providing the land and some capital.

The Australian Government contributed a total of \$507,000 to the joint venture project on Home Island, with the Shire constructing two houses under the arrangement. Construction of the houses was completed in early 2007. Under the terms of the partnership agreement, the Shire is to own, manage and maintain the houses for the purpose of providing public housing for at least 25 years. The Shire must lease the houses only to persons meeting the relevant WA public housing eligibility criteria.

## 9. The Impact of Climate Change

In 2008, the Department commissioned a report about the potential impacts of climate change in the Territories. This is the only Australian Government research on climate change in the Territories that includes impacts on human settlement. A copy of the report can be provided to the Committee. Community consultation on the initial findings of the risk assessment has been undertaken; further consultation on adaptation strategies, some of which may provide additional on-Island employment, will follow later in 2009.

The Territories are vulnerable to the potential impacts of climate change. The magnitude of exposure, vulnerability and risk associated with these changes are much greater for the Cocos (Keeling) Islands.

The coastal zones of the Cocos (Keeling) Islands, are affected by high tides, strong currents and cyclonic storm surges, which contribute to erosion and accretion in some areas of the islands. Rising sea levels will increasingly impact on areas of the Cocos (Keeling) Islands.

Current risks for Cocos (Keeling) Islands include storm surge and tropical cyclones. Most pass by without causing any significant damage. A small number of cyclones have caused severe damage during the last 150 years. However, increased sea levels and a predicted change in weather patterns may pose a greater risk to the community.

The number of intense tropical cyclones (category 4 and 5) occurring within 500 km of the Cocos (Keeling) Islands is expected to double while the number of intense tropical cyclones occurring within 500 km of Christmas Island is projected to increase by 63 percent by 2030.

Climate change, specifically warming sea surface temperatures also impacts marine ecological systems. Coral reefs are critical to the community's economic wellbeing by providing resources and habitats for fish and are a basis for the small tourism industry.

Christmas Island is less vulnerable to the impacts of rising sea levels. Human settlement and a small tourism industry based on ecological systems may be impacted by climate change. For example, while not considered a 'cyclone prone' location, Christmas Island has had two significant cyclone events in recent history (March 1988 and April 2008) that have caused serious issues for low lying areas of Flying Fish Cove.

During the April 2008 event, water encroached to the front of the flats at Kampong and extended 100 metres onshore, the seawall was damaged and rocks and mooring buoys were thrown onto the road fronting Kampong.

The Department is working with the Department of Climate Change and the communities on adaptation strategies for the Territories to enhance local capability to adapt to the impacts of climate change and build resilience.