

Accountability and transparency in decision making, and the link between effective governance and economic sustainability

Introduction

- 3.1 This chapter deals with accountability and transparency in decision making, and the link between effective governance and economic sustainability. The Committee notes that accountability and transparency are at the heart of effective governance, while effective governance is required to underpin economic sustainability.
- 3.2 The overall view of the Committee is that there are serious questions for government to address relating to accountability and transparency in decision making in the Indian Ocean Territories. Lack of accountability, lack of transparency, and failures in community consultation are undermining decision making processes and the community's confidence in those processes. This in turn is retarding economic development.

Accountability and transparency in decision making

- 3.3 Issues of accountability and transparency lie at the centre of much of what will be discussed in this and subsequent chapters. The processes by which decisions are made and implemented in the IOTs are of critical concern,

given the prevailing level of disenchantment emanating from residents of the Territories.

The view from Christmas Island

- 3.4 On Christmas Island, there is profound dissatisfaction with levels of consultation, accountability and transparency in decision making processes relating to the IOTs. In his evidence to the Committee, Mr Gordon Thomson, Shire President on Christmas Island, stated:

We welcome the inquiry because overall we are extremely dissatisfied with the current governance arrangements. We do not have enough say in our own affairs. The government makes decisions without considering the impacts on us.¹

- 3.5 He continued:

We want change in order to put our community on a surer and fairer footing so that we can realise that our future is in our hands.²

- 3.6 The Shire of Christmas Island highlights numerous examples of perceived failures of accountability and transparency in decision making in its submission. These shortcomings relate to attitude, process and outcomes across a range of issues. The Shire argues that:

...the [Australian] Government isn't accountable to this community and doesn't believe that it is required to be. Further, the Government pays lip service to consultation and has no sense of or concern about the impact of its decisions on the community.

This lack of accountability is closely allied to the fact that the community is non-self governing and has little decision making rights of its own.

It is also the Shire's submission that there are insufficient mechanisms to make the government accountable for its decisions. The limited accountability mechanisms available are relatively inaccessible to this community. They are also ineffective in that they are largely ignored by those being called to account. The Shire has attempted to utilise the available mechanisms to raise the level of accountability, and to create its own, but is overall

1 Mr. G. Thomson (Shire of Christmas Island), *Transcript of Evidence*, 30 January 2006, p. 3.

2 Mr. G. Thomson (Shire of Christmas Island), *Transcript of Evidence*, 30 January 2006, p. 3.

dissatisfied with the Government's unwillingness to account to the community for its decisions.³

3.7 The Shire's submission further argues that:

Transparency is also absent when decisions are made at a distance, not locally, and aren't announced or explained. Decisions are made solely from a bureaucratic or political perspective, not a community perspective. Allied to this is the attitude that commitments previously made can be conveniently put aside, ignored or forgotten. There is no continuity. Further, the connection with the community is so tenuous, communications so disjointed, and lines of decision making so unclear that the community can't 'keep the bastards honest'.⁴

3.8 In essence, the Shire concludes, 'there is no accountability, no transparency and no responsibility'.⁵

3.9 The two decisions, amongst others, highlighted by the Shire to demonstrate the shortcomings in accountability and transparency are the 2004 decision to refuse a casino licence for Christmas Island (this issue will be addressed in more detail later in this chapter), and the 2003 policy announcement resulting in a downsizing of the Administration and a move towards outsourcing services. Both decisions were made without consulting the Christmas Island community. Neither decision, from the point of view of the Shire, has ever been satisfactorily explained or justified. Both decisions have had a significant impact on the local community.

3.10 According to the Shire, the decision to downsize DOTARS' presence in the IOTs has had the additional effect of making the Government less accessible and thus less responsive to the concerns of the community.⁶ In its submission, the Christmas Island Chamber of Commerce described the 2003 policy decision as 'a backward step':

The 2003 decision by the Department to reduce its Island office and functions and administer our affairs 2500km away in Perth has both dismayed and offended the majority of the residents in both Territories. The commonly held perception of this decision is that while the Department wants to continue to control our lives

3 Shire of Christmas Island, Submission no. 10, p. 26.

4 Shire of Christmas Island, Submission no. 10, pp. 26-7.

5 Shire of Christmas Island, Submission no. 10, p. 27.

6 Shire of Christmas Island, Submission no. 10, pp. 27-32.

they are not prepared to live here and share the challenges we face in our daily endeavours.⁷

- 3.11 Other examples of the failure to consult and consider impacts upon the community raised by the Shire of Christmas Island are the construction of the temporary Immigration Reception and Processing Centre (IRPC) and its impact on the planned waste management facility, the planning and construction of the community recreation centre, and the future of the Indian Ocean Territories Health Service.⁸
- 3.12 The Shire also highlighted what it perceived as DOTARS' lack of responsiveness to outside scrutiny. The Shire views parliamentary oversight of the Department's activities as intermittent and only sporadically successful. Inquiries by the Commonwealth Ombudsman had, to date, resulted in no apparent action.⁹ The Shire was particularly frustrated by the tendency of DOTARS to ignore or evade the findings of reports,¹⁰ concluding:

The examples in this section are evidence of a Government Department who has no compunction in getting reports to suit it, or in wasting considerable public money on reports, or in ignoring commitments made, even those made to Parliament. It also appears to reward, or do nothing to restrain, poor behaviour despite public scrutiny of its actions. Essentially DOTARS Territories Branch don't understand the term accountability and appear to believe that it is above any mechanism to ensure Government actions are in accord with the principles of efficiency, effectiveness or fairness.¹¹

- 3.13 In his evidence to the Committee, Mr Thomson argued that to overcome the suspicion and conflict which characterised the IOTs' relationship with the Australian Government would require a change of attitude on the part of the Government and the development of a shared strategic vision for the IOTs:

To change the relationship requires commitment and respect from both parties. Unfortunately community relations with the Commonwealth are less than good. They are characterised by suspicion and distrust, a lack of effective communication and a

7 Christmas Island Chamber of Commerce, Submission no. 4, p. 15.

8 Shire of Christmas Island, Submission no. 10, pp. 33–38.

9 Shire of Christmas Island, Submission no. 10, pp. 53–56. See also Ms M. Robinson (Shire of Christmas Island), *Transcript of Evidence*, 30 January 2006, pp. 24–5.

10 Shire of Christmas Island, Submission no. 10, pp. 38–45.

11 Shire of Christmas Island, Submission no. 10, p. 45.

lack of shared vision or plans. The shire have worked hard to improve the relationship but in many ways it remains difficult and unsatisfactory. We have a long-established strategic plan for Christmas Island, developed by this community under the auspices of the Shire of Christmas Island. The Commonwealth does not have a shared vision for this island or, indeed, we believe, a strategic plan. If there is one, it is secret. The shire have worked hard to improve the relationship but in many ways it remains difficult and unsatisfactory. Recognition of the local community's interest is vital. The community perception is that the Commonwealth is interested in the rock but not in the needs and interests of the people who live here.

A change in Commonwealth attitudes to the island and its inhabitants, as well as actions to cement such a change, is vital. A key component of a change in the relationship is creating an environment where accountability and shared decision making is the norm. In many cases there is no government accountability to this community, as the casino decision of July 2004 exemplifies. The shire are willing to work with the Commonwealth in this partnership, believing that we have a clear legal and community mandate to pursue such a partnership, but we need the Commonwealth to join with us.¹²

3.14 In its submission, the Shire of Christmas Island identified a range of measures to improve accountability and transparency in decision making by government:

Immediate

1. Prepare and publish a customer service charter for the Territories Branch of DOTARS.
2. Establish complaint mechanisms that are transparent and readily accessible to the community.
3. Produce and publish an annual report about the Territories Branch of DOTARS activities in the Indian Ocean Territories, disaggregated by Territory.
4. Document lines of decision making within the Department's offices in Canberra, Perth and Christmas Island and by the Minister and publish this information in the community.

12 Mr G. Thomson (Shire of Christmas Island), *Transcript of Evidence*, 30 January 2006, p. 4.

5. Agree and establish clear lines of communication and information dissemination about Commonwealth activities in the Indian Ocean Territories.
6. Commit to reviewing services already contracted out when the contract expires, with a view to local management of these services wherever possible.
7. Agree to review decision making arrangements within the Department in consultation with the community on the basis of locating decision making as close as possible to the community and identifying all areas and activities the subject of decision making.
8. Agree to a timeframe and resources to establish an effective consultation arrangement about the health service, using the Alberton Consultants report as a starting point.

Longer Term

9. Submit the 2003 policy and all details of current plans for existing services being delivered by the Department to the community via the Shire for comment and change.
10. Establish the Ministerial Advisory Committee in the terms proposed by the Shire of Christmas Island.
11. Establish an agreed effective mechanism for direct community participation in decisions about expenditure on service delivery programs for the Indian Ocean Territories.
12. Agree a framework and timeframe for progressively transferring decision making to the community.
13. Negotiate, agree and establish an effective health advisory arrangement.¹³

Committee conclusions

- 3.15 The Committee views the evidence from Christmas Island as strongly indicative of problems in the processes of accountability and transparency, and the processes of community consultation, in DOTARS' administration of the IOTs. At base, there is a fundamental lack of any requirement for DOTARS to answer to the community for its actions, or even to consult with the community. The answer, at least as far as Christmas Island is concerned, is a fundamental alteration in the system of governance. The

13 Shire of Christmas Island, Submission no. 10, pp. 59–60.

Committee agrees that as part of a more thorough review of governance arrangements in the IOTs, many of the measures identified by the Shire of Christmas Island in its submission would be useful.

The view from the Cocos (Keeling) Islands

- 3.16 The evidence from the Cocos (Keeling) Islands is less clear cut. Mr John G. Clunies-Ross was frustrated both by the withdrawal of DOTARS staff from the islands, and the lack of a review process for WA applied laws.¹⁴ In his submission, referring to the question of governmental and departmental accountability generally, he stated:

Currently there is no process for accountability. Even when accountability is ascertained for misfeasance or malfeasance, I can only remember of a single case of it ever being taken beyond a mild slap on the wrist. Decision making is done remotely, with little reference to the community. "Policy" is not debated, presented by media release, and generally only adhered to if "revenue neutral".¹⁵

- 3.17 In his submission, Mr Robert Jarvis, former CEO of the Cocos (Keeling) Islands Shire Council, also questioned accountability and transparency of decision making in the IOTs:

The cause of greatest concern for the Shire's and many residents is the role of the head of the Territories section of the Department of Transport and Regional Services who has become by default the equivalent of the state government for the two territories. This is not just a perception on his or residents' part, but is often manifested in decision making over issues that are of real consequence to residents without consultation. The development of heritage buildings on Cocos by the Commonwealth without referral to the Shire or the Heritage Commission is one recent example, when the Shires have been told stridently of their responsibilities with regard to approvals for changes to Heritage buildings, and have complied with those directives. There appears to be no accountability for these actions, or repercussions despite concerns being lodged with the Department.

The absence of any involvement by State Ministers of Health, Planning, etc. in the administration of applied legislation places the State Departments, who provide assistance to the

14 Mr J. G. Clunies-Ross, *Transcript of Evidence*, 1 February 2006, pp. 33, 39.

15 Mr J. G. Clunies-Ross, Submission no. 15, p. 6.

Commonwealth (on a fee recovery basis) in the position of being contractors to the Commonwealth, and their priorities and actions are prescribed by Commonwealth Bureaucrats. This does not provide for a transparent and accountable process, nor does the Minister for Territories fulfilling the function of any body mentioned in the State legislation that is applied for which there is no Commonwealth equivalent. In developing Commonwealth land or assets, the Commonwealth has been the proponent, the State and Federal Government, the employer of the State agencies which provide the advice, and the appeal body in the event of any dispute, as well as being able to direct the local governments.¹⁶

- 3.18 Mr Jarvis noted in his evidence before the Committee in Perth on 22 February 2006, however, that since lodging his submission in June 2005 the relationship between the shire and the Commonwealth had ‘significantly improved’:

I believe that some of the [DOTARS] officers have moved on. I do not mean any disrespect to them, but I believe the relationship now with the Department of Transport and Regional Services is a very positive one. Some of the conflicts that had arisen during the time that I was there have since been resolved. I am very pleased about that, as I have a personal interest in the success of the Indian Ocean Territories.¹⁷

- 3.19 This improved relationship was confirmed by representatives from the Cocos (Keeling) Islands Shire Council. Mr Bill Price, current CEO of the Shire Council, noted that communications had improved, notwithstanding the withdrawal of DOTARS from Cocos, and rather, because of it:

We feel we have excellent communication lines with DOTARS. To be quite honest, as a community we are not unhappy that DOTARS’ presence is off island. We feel that has given the council the opportunity to represent the community. Instead of the little brother on the island, it is now more the figurehead of the island. Our communication lines particularly with the Perth office are very open. If we have any concerns we have contact with Christmas, Perth or Canberra.¹⁸

16 Mr R. Jarvis, Submission no. 3, p. 1.

17 Mr R. Jarvis, *Transcript of Evidence*, 22 February 2006, p. 46.

18 Mr B. Price (Cocos (Keeling) Islands Shire Council), *Transcript of Evidence*, 1 February 2006, p. 9.

- 3.20 In his evidence before the Committee, Mr Ron Grant, President of both the Cocos (Keeling) Islands Shire Council and the Cocos (Keeling) Islands Economic Development Association, also told the Committee that communication with DOTARS was 'very effective' and 'on a very regular basis':

I would describe the relationship with DOTARS as the best that we have had in the 20 years I have been in the territory. To give an example, we have a monthly teleconference with the general manager of DOTARS in Canberra. We have a monthly teleconference with the director of DOTARS in Perth and also one with the director of DOTARS for Christmas Island. After the visit by the new administrator, Neil Lucas, last week, we have agreed to put in place a teleconference once a month with him. We also have regular visits with DOTARS in Perth and Christmas Island, and we make a point, when we travel to Perth or Canberra, to have a regular briefing session with DOTARS. We also have two face-to-face meetings per year with DOTARS, one on Cocos and one in Canberra, where we go through issues that we are concerned about in relation to the application of WA laws or DOTARS-delivered services in the territory. Currently both DOTARS and ourselves believe we have a very good working relationship.¹⁹

- 3.21 Despite the improvement in the relationship between the Cocos Islanders and DOTARS, the Committee nonetheless remains concerned about the structure of consultation between the department and the community, and the level of accountability and transparency in decision making. The evidence of Mr Jarvis indicates that it was not so long ago that there were serious problems with accountability regarding 'a whole range of things where it just happened and locals felt like they were powerless to do anything about',²⁰ not least being the attitude of senior DOTARS officers:

The department head saw himself as the equivalent of our state government, and it was a statement that that particular person made on a number of occasions to me and to the shire. I guess that rankled a little, because we did not elect him; he was a Commonwealth bureaucrat. That person has moved on and I have not heard any similar comments.²¹

19 Mr R. Grant (Cocos (Keeling) Islands Shire Council and Cocos (Keeling) Islands Economic Development Association), *Transcript of Evidence*, 22 February 2006, p. 29.

20 Mr R. Jarvis, *Transcript of Evidence*, 22 February 2006, pp. 53, 47–8.

21 Mr R. Jarvis, *Transcript of Evidence*, 22 February 2006, p. 47.

3.22 Similarly, when pressed upon the outcome of a particular issue, Mr Price admitted that even now accountability and transparency in decision making was not always what it could be:

Mr SNOWDON – What is happening with the issue of the hovercraft?

Mr Price – Currently there is a ferry service which is contracted to the cooperative. They called for an expression of interest from alternative suppliers of a ferry contract and a submission was received for a hovercraft arrangement between the islands. That proponent had to go through the EPA process and apparently that is about where it is at now. DOTARS still have not granted a contract to that person, but if you go through all the process and everything else they will need to decide whether they are going to award the contract to them. Obviously that is going to have implications to local employment, the current local business, the cooperative. That is probably one where not a lot of negotiation was done prior to accepting the hovercraft proposal.

Mr SNOWDON – The point I am trying to make is the one you have just made. There are significant areas of policy judgement and decision making which are made elsewhere without negotiating with the community.

Mr Price – Yes.²²

Committee conclusions

3.23 It is the view of the Committee that while the need for reform of governance arrangements appears less urgent in the Cocos (Keeling) Islands than on Christmas Island, similar problems exist. Some reform of the consultation and accountability mechanisms would be desirable, and, if the two Territories are to remain under joint administration, inevitable.

The view from DOTARS

3.24 In its submission, DOTARS acknowledged that ‘the importance of effective consultation with the communities of the IOTs is accentuated by their geographic isolation and is conscious of the need to continually review its performance in this area’. Departmental officers responsible for oversight of the IOTs are distributed between Christmas Island, Perth and Canberra. DOTARS’ submission also noted that the Minister for

22 *Transcript of Evidence*, 1 February 2006, pp. 12–13.

Territories had 'delegated many of his powers to those in the most appropriate position – in many instances this will be an officer located on Christmas Island but may also be officers in Canberra or Perth or to officials in WA departments with whom the Commonwealth has SDAs'.²³

3.25 Elaborating upon the issue of delegation of powers, a representative of DOTARS stated:

It is a difficult question to give a precise answer to. Decisions in Canberra relate principally to resource allocation. Major policy decisions in terms of future policy of the IOTs, decisions which relate to the investigation of SDAs and other day-to-day provisioning for the islands are, by and large, made in our Perth Office. That is the general split.²⁴

3.26 The General Manager of the Territories Branch within DOTARS, commenting on the same issue, indicated her own delegations, but also that the structure of delegation was undergoing change:

As general manager for territories, I have various delegations in relation to issuing licenses and signing off on some of the more significant financial matters, but those delegations are going to be altered so that they go back to the Perth office.²⁵

3.27 DOTARS observed that it had a range of measures in place to ensure it consults with the IOTs' communities before decisions are made, including:

- a fixed monthly phone hook up between the Shire of Cocos (Keeling) Islands and the Department in which new initiatives and other issues are discussed;
- Departmental officers undertake regular travel to the Islands on a range of issues, particularly those related to service provision; and
- funding for the Shire Councils to support community consultation and liaison in respect of state government-type services provided through WA State Agencies.²⁶

3.28 Other initiatives to ensure information is shared with the communities include a regular newsletter by the Territories Minister and regular departmental bulletins.

23 Department of Transport and Regional Services, Submission no. 12, pp. 1-2.

24 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 2.

25 Ms A. Clendinning (Department of Transport and Regional Services) *Transcript of Evidence*, 27 March 2006, p. 2.

26 Department of Transport and Regional Services, Submission no. 12, p. 2.

3.29 DOTARS also noted that the Territories Minister had ‘endorsed protocols for a new committee of the Shire of Christmas Island whose objective will be to facilitate communication between the community and the Minister’.²⁷ On this committee, the Minister would be represented by the Administrator.

3.30 The role of the Administrator had been modified ‘to provide a better division between the Department and the Government’:

The Administrator’s role is independent from the Department and is now more focussed on facilitation and economic development rather than daily administration. The Administrator provides IOT residents with a direct and independent avenue of communication with the Government.²⁸

3.31 Despite the evidence submitted by DOTARS, the Committee retains concerns about the level of consultation between the Australian Government and the IOTs communities, and the accountability and transparency of decision making processes. When asked to outline the precise consultation process in place for SDAs, DOTARS assured the Committee that consultation did take place, but was unable to outline the process in place:

Money has been provided by the Commonwealth to the two shire councils on the IOTs – an amount of, I think, \$75,000 a year – to enable those shire councils to facilitate a formal consultation process on legislation and the SDAs that affect them. My understanding is that in the overwhelming majority of cases there is formal consultation. I am aware that the Christmas Island Shire Council has concerns about a lack of consultation in relation to a recent SDA on sport and recreation. Other than that, my understanding is that regular consultation does take place. Three or five SDAs are due to expire this year and consultations are currently under way with both communities to get their views on the effectiveness of those agreements.²⁹

3.32 Similar concerns arise over consultation on applied laws. DOTARS stated that it was the department’s understanding that similar processes applied to consultation on Western Australian applied laws as applied to SDAs. When pressed as to the exact form of the consultation process, however, a

27 Department of Transport and Regional Services, Submission no. 12, p. 2.

28 Department of Transport and Regional Services, Submission no. 12, p. 2.

29 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, pp. 3–4.

representative of DOTARS advised: 'I am not aware of a process.'³⁰ When questioned on the current status of the Community Consultative Committees on Christmas and Cocos, DOTARS responded that its understanding was that both committees were still in existence, but noted that the department was no longer formally part of those committees. When asked why this was so, DOTARS replied:

I suppose it represents a change in the relationship. As there are more providers of services on the island, DOTARS role is changing. The administrator now has an explicit role to examine economic development and to consult formally with those communities. I think it was felt that it would be better to place the relationship on a more formal basis rather than having DOTARS, if you like, as a representative on those committees; that those committees ought to be able to speak for themselves.³¹

3.33 When it was indicated that the Shire of Christmas Island saw this as a negative move, DOTARS suggested that this was the view of the Christmas Island Shire President rather than the collective view of the Shire or community. The department conceded that Mr Thomson's view may have had some impact on the decision to establish the alternative consultation arrangements through the new committee cited in the DOTARS submission.³² When the Committee enquired as to the current status of the new committee, DOTARS replied:

That committee is yet to meet. The minister has offered the prospect of a consultative committee, which would be a committee for whom the shire council has responsibility. It will meet in accordance with the needs and requirements of the shire council. At this stage, the shire has yet to finalise arrangements. It is my understanding, with regard to that committee – and it has not met – that the shire and the administrator are continuing to negotiate on mutually acceptable arrangements for the operation of the committee.³³

3.34 Questioned on the relationship between DOTARS and the IOTs more generally, particularly the discrepancy in attitudes towards the

30 Ms A. Clendinning (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 4.

31 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 36.

32 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 37.

33 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 5.

Department between Christmas Island and the Cocos (Keeling) Islands, DOTARS stated:

I do not think we have an uncooperative relationship with either island community. As I said at the outset, there are always going to be tensions in relation to the delivery of services by another body or another level of government with an island community, particularly a remote community. I can understand, as I indicated to you, that from time to time there will be dissatisfaction about elements of that. I accept that and I accept that we can improve them, but I would not characterise either as uncooperative relationships.³⁴

- 3.35 DOTARS acknowledged the frustration of the IOTs communities, but argued that within the limits of what was possible, the department was consulting with people and attempting to provide the services they desired:

Successive governments have devised a separate model for the Indian Ocean territories. I can certainly see that if you were a resident of the territories you might find at times the fact that you have services delivered centrally from Canberra and do not have access to a state government frustrating and annoying. We do recognise that. We try to do our best to ameliorate or recognise those concerns. On some occasions we may not get it right, but within the limits of what we can do we do try to consult with people. It is certainly not our intention to provide services to either of those communities in a fashion that they would find undesirable.³⁵

Committee conclusions

- 3.36 The Committee recognises the difficulties DOTARS faces under the current arrangement. The Committee is not critical of DOTARS on account of a lack of willingness to undertake consultation; rather, the Committee is concerned that the framework for consultation is fundamentally flawed. The Committee does not believe DOTARS seeks to intentionally avoid accountability and transparency in decision making – but nonetheless views the current system as unacceptable. The critical issue is the lack of formal consultation mechanisms which make accountable and transparent
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34 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 30.

35 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 8.

decision making more difficult. In the rest of this chapter the Committee examines the impact of these problems on the economic viability of the IOTs, and proposes solutions to those problems. In chapter four, the Committee looks at the issue of Western Australian applied law and service delivery arrangements more closely.

Effective governance and economic sustainability

3.37 In its submission, the Shire of Christmas Island observes that ‘economic sustainability is a key component of effective governance’.³⁶ The Committee observes that the opposite is equally true, that effective governance is an important component of economic sustainability, for, as this chapter reveals, poor government decision making within the context of an inadequate governance framework can undermine economic development. As Captain Don O’Donnell, executive member of the Christmas Island Chamber of Commerce, told the Committee:

Good governance and economic development go hand in hand, and there is abundant historical and empirical evidence to support that statement. Equally, bad governance, bad policy decisions and lack of economic development are the other side of the coin in the social equation. I raise this concept of governance and economic development because this island is economically going backwards. In fact it is in decline, and in 2006 it will be seen, in historical terms, as a watershed for either a positive or a negative future of development.³⁷

The view from DOTARS

3.38 The Committee notes that in its submission DOTARS paid some attention to the issue of the economic sustainability of the IOTs, but not necessarily in the context of the relationship between economic sustainability and effective governance. DOTARS does note, however, the inherent vulnerability of such small economies to the vagaries of government decision making:

The economies and population base of the IOTs are small and are susceptible to impacts from factors that would not normally affect

36 Shire of Christmas Island, Submission no. 10, p. 61.

37 Captain N. P. O’Donnell (Christmas Island Chamber of Commerce), *Transcript of Evidence*, 30 January 2006, p. 34.

larger, more robust economies. Relatively minor decisions on government capital investments and programme funding often have a significant impact on their small economies.³⁸

3.39 Looking at the economic prospects of the Territories, DOTARS' submission notes that phosphate mining continues to be the main economic activity and core source of employment on Christmas Island, while delivery of services to government is the main private sector activity on the Cocos (Keeling) Islands. On Christmas, existing mining leases have an expected life of between five and ten years, with some prospect of new leases being opened. On Cocos, there has been some growth of small scale tourism and other 'cottage' industries, but much of this is still very much in the early stages of development.³⁹

3.40 Departmental activity 'has continued to focus on creating a climate conducive to private sector development by "normalising" structures and governance arrangements to reduce impediments to economic development'.⁴⁰ Specific 'normalisation' initiatives include:

- Town Planning Schemes and Local Planning Strategies, and a Land Release Strategy;
- the Australian Government divesting itself of assets which are no longer needed in providing core services; and
- reform of the housing market, increasing private home ownership and opportunities for private development.

3.41 In evidence before the Committee, DOTARS emphasised that normalisation 'is predicated on an assumption that the shires would eventually be incorporated into the state of Western Australia'.⁴¹

3.42 DOTARS' submission notes the important role public sector activity plays in the economy of the IOTs:

The annual capital works programme of the Government forms an important part of the economies of the IOTs and the Government has committed to a \$19 million capital funding programme for 2005-06. Around \$8.4 million of this funding has been committed to improving freight facilities on the Cocos (Keeling) Islands. Christmas Island has been allocated \$5.2 million primarily for the

38 Department of Transport and Regional Services, Submission no. 12, p. 4.

39 Department of Transport and Regional Services, Submission no. 12, p. 4.

40 Department of Transport and Regional Services, Submission no. 12, p. 4.

41 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 19.

replacement of hospital and power station equipment. The Department is attempting to schedule capital projects in a way that does not strengthen any boom bust cycle in the local economies.⁴²

- 3.43 DOTARS' submission also emphasises the potential for economic development inherent in the Immigration Reception and Processing Centre (IRPC) and the proposed Asia Pacific Space Centre (APSC):

The economic base of Christmas Island will be expanded and diversified through the Government's decision to establish a permanent Immigration Reception and Processing Centre on the Island. This project is providing significant economic benefits for the Island during the current construction phase. The ongoing impact from the operation of the Centre will be dependent on Government immigration policy. Similarly, the Government has made decisions to encourage the diversifying of the economy by supporting a private proposal for a satellite launching facility.⁴³

- 3.44 The main option for economic development on the Cocos (Keeling) Islands being explored by the Australian Government is tourism:

The private sector has a proposal in the planning stages for a resort on Cocos (Keeling) Islands and the Department is also in the process of developing a Request for Proposals for the development of a resort on Cocos. These resorts would target different markets and therefore would enhance economic sustainability, rather than compete in a limited market. The Department has undertaken on-island consultation on its proposal and has put forward an offer to the Shire to incorporate Trust land in any proposal.⁴⁴

- 3.45 DOTARS noted that the Administrator has commissioned the development of a strategic plan for the economic development of the IOTs, 'to be undertaken in conjunction with the Island Economic Development Associations (EDAs), the Christmas Island Chamber of Commerce and other interested parties'. DOTARS further noted that the Australian Government provides 'funding and support for economic development, particularly to encourage the private sector', and that DOTARS provides funding for the EDAs on both Christmas and Cocos (Keeling) Islands to support local initiatives:

These associations promote economic development through the identification and promotion of small projects which will provide

42 Department of Transport and Regional Services, Submission no. 12, p. 5.

43 Department of Transport and Regional Services, Submission no. 12, p. 5.

44 Department of Transport and Regional Services, Submission no. 12, pp. 5-6.

business opportunities and employment. On Cocos (Keeling) Islands the EDAs have supported export initiatives of live clams and fish for the aquarium trade and provided funding to develop local fresh produce. On Christmas Island support has been given to promote the Island as a tourist destination.⁴⁵

- 3.46 The section of DOTARS' submission dealing with the issue of economic sustainability concludes by stating:

Given that the model of governance on the IOTs previously involved the Australian Government implementing a colonial-type whole of government approach (responsible for the three levels of government), the communities still see, to some extent, the Government to be responsible for ensuring appropriate levels of economic activity. As the Department has scaled down its direct service provision and on island presence, the local communities have accepted more responsibility for the economic development of the Islands.⁴⁶

Committee conclusions

- 3.47 The Committee is of the view that this summary of economic potential and departmental activity provides a limited and flawed perspective. There is no sense of dynamism or direction. Even the strategic plan for the economic development of the Territories prepared by the Administrator has the feel of 'top-down' planning. Addressing development on Christmas Island, there is no response to the impending demise of the phosphate mine and undue emphasis is placed on the economic potential of the IRPC, an institution whose use is wholly dependent on the shifting requirements of government policy, and the APSC, a project which now appears defunct.⁴⁷ Much emphasis is also placed on the policy of 'normalisation'. Carried out for its own sake normalisation must inevitably produce a mixture of outcomes, good and bad, and has no intrinsic merit. As part of the process of incorporating the IOTs into Western Australia, normalisation has some value, but the process of incorporation has stalled and there is no proximate danger of a successful outcome. Normalisation, as a stand alone strategy, is not viable, as it fails to take account of the particular circumstances of the IOTs.

45 Department of Transport and Regional Services, Submission no. 12, p. 6.

46 Department of Transport and Regional Services, Submission no. 12, p. 6.

47 *The Australian*, 26 April 2006, p. 7.

The view from the Cocos (Keeling) Islands

3.48 The submissions of the Cocos (Keeling) Islands Shire Council and the Cocos (Keeling) Islands Economic Development Association (CKIEDA) outline a perspective similar to that projected by DOTARS—namely that of a small local community taking greater responsibility for the economic development of their people and resources. The Shire Council’s submission emphasises the link between effective local government and economic development, stating:

By establishing a more effective and efficient local government authority not only will sustainable economic development be encouraged but it will contribute to more effective governance not only at a local government level, but also at Territorial level.⁴⁸

3.49 In tandem with the Shire Council’s submission (they deliberately dovetail into each other) CKIEDA’s submission outlines a series of strategies and projects by which the local community, with the assistance of the Australian Government, is attempting to achieve economic development on a local scale.⁴⁹ In evidence before the Committee, Mr Ron Grant, President of both the Cocos (Keeling) Islands Shire Council and CKIEDA, explained:

From the shire’s point of view, *Vision 2010* very clearly identifies the direction the shire is moving in relation to economic development. From the Cocos (Keeling) Islands Economic Development Association’s point of view, their document which is referred to as *Resources 2010* provides a very clear indication of the strategic direction and the projects that are currently being undertaken. So in relation to tourism both the shire and the EDA have a very specific strategy for that development.⁵⁰

3.50 The strategic direction is northward, exploiting the markets of Southeast Asia. The principal resources for exploitation are marine resources and tourism. Both have their limits. The key to the strategy is finding small niche markets. Social, environmental and economic sustainability within an inherently limited social, financial and natural environment is the goal. Discussing the potential for economic growth on Cocos, Mr Grant stated:

At the moment, from economic development, small-scale tourism would be one thing. What you have to understand is that when

48 Cocos (Keeling) Islands Shire Council, Submission no. 5, p. 52.

49 Cocos (Keeling) Islands Economic Development Association, Submission no. 6, pp. 14–18.

50 Mr R. Grant (Cocos (Keeling) Islands Shire Council and Cocos (Keeling) Islands Economic Development Association), *Transcript of Evidence*, 22 February 2006, p. 32.

tourists come to Cocos they want to see something. That is why the Cocos (Keeling) Islands Economic Development Association has a broad range of projects which go from the coconut oil project down to the mengkudu, the beche de mer project, the black-lip oyster pearl project and also the tuna project. When people come to Cocos, especially from South-East Asia, they normally only come for holidays of four to seven days. They are not long stayers but they really like to pack a lot into that, so you have to have a number of niche economic developments they can go and look at whose products they can buy and provide them with interest while they are here. Again, it has to be put in perspective. It has to be sustainable and by the sheer land area and population, it will not be huge. It will be reasonably small.⁵¹

3.51 Addressing the broader issue of governance and economic sustainability, CKIEDA's submission states:

It is essential that a modern body of state law, supported by state government departments, exists for the CKI, and Christmas Island ("CI"), to encourage economic development and this requires:

- A modern body of law, which is currently provided by Western Australian law being applied as Commonwealth law for the CKI.
- Service Delivery Agreements ("SDAs") in place with Western Australian agencies, to ensure that the same level of support that is provided in Western Australia by these agencies is provided to the residents of the CKI and CI.
- Accountability and transparency levels for the CKI and CI are at the same levels available to residents of Western Australia.⁵²

3.52 The Committee notes that broadly speaking this structure is already in place. Moreover, it appears to satisfy the needs of the Cocos Islanders. Mr Grant told the Committee:

I firmly believe, even with the current system of government that we have, which is a non-self-governing territory, there is the right combination of the private sector, governments of all levels, and community.⁵³

51 Mr R. Grant (Cocos (Keeling) Islands Shire Council and Cocos (Keeling) Islands Economic Development Association), *Transcript of Evidence*, 22 February 2006, pp. 36-7.

52 Cocos (Keeling) Islands Economic Development Association, Submission no. 6, pp. 19-20.

53 Mr R. Grant (Cocos (Keeling) Islands Shire Council and Cocos (Keeling) Islands Economic Development Association), *Transcript of Evidence*, 22 February 2006, p. 33.

- 3.53 His evidence emphasises both the need for the private sector to take a greater role in the economic development of the Cocos (Keeling) Islands, and the inherent limits owing to the Islands' circumstances:

My firm belief is that the private sector in the islands needs a real good kick in the bum. Really, the driving force in the island has always been the government. Whether the government is seen at the federal level or the local level, it has been the driver. The private sector tends to ride along on the coat-tails of the government sector. In the future for Cocos – and I am only speaking specifically for Cocos – the private sector has to be far more active. One of the areas is tourism and the other area is marine resources. If you can make those work at a sustainable level, you can create employment, you can create revenue, you can create taxes that flow back to the government. Taking into account the small population base and the small land mass, the ability of the territories to produce really significant incomes, taxes and employment is quite restricted.⁵⁴

- 3.54 Given the inherent limitations in the circumstances of the Cocos (Keeling) Islands, the evidence suggests that the mix of public and private sector activity on the Islands is about right, and that if current trends are maintained the outcomes will be beneficial to the community. It would also appear that the current system of governance is operating effectively in regard to the economic development of the Cocos (Keeling) Islands.
- 3.55 Having said this, however, there were some issues of concern raised with the Committee on Cocos that cut to the issue of the relationship between governance and economic sustainability. Mr Bill Price, CEO of the Cocos (Keeling) Islands Shire Council, expressed a desire to see more locals employed by Commonwealth funded services, although he did acknowledge gaps in local expertise.⁵⁵ This echoes more ardent concerns expressed in evidence from Christmas Island over the impact of 'normalisation' and 'market testing' (see chapter four). Mr Balmut Pirus, Deputy President of the Shire Council, expressed a desire for more apprenticeships and traineeships for the children on the Islands, 'so that in five or 10 years we will have people like them who will run the services'.⁵⁶

54 Mr R. Grant (Cocos (Keeling) Islands Shire Council and Cocos (Keeling) Islands Economic Development Association), *Transcript of Evidence*, 22 February 2006, pp. 35.

55 Mr B. Price (Cocos (Keeling) Islands Shire Council), *Transcript of Evidence*, 1 February 2006, p. 9.

56 Mr B. Pirus (Cocos (Keeling) Islands Shire Council), *Transcript of Evidence*, 1 February 2006, p. 18.

- 3.56 While the Committee was on Cocos, concerns were also raised about the future of the telecentre on West Island. It was indicated to the Committee that this community facility staffed by volunteers faced closure due to rent increases. Rents on Commonwealth properties on West Island are set by consultants based in Perth. The community is not consulted about the setting of rents.⁵⁷
- 3.57 When this issue was raised with DOTARS at a public hearing in Canberra, the Department explained that the Commonwealth 'has to have an appropriate, fair and transparent formula or approach for determining rents on the island, and it has adopted the approach of using a Western Australian agency'. The rationale for this from the Commonwealth's point of view is that 'the Western Australian government have a lot of experience in dealing with remote communities as well, and they are probably better placed – certainly better than we would be – to provide advice on suitable rents'. Addressing the issue of consultation, DOTARS stated:
- But equally, in mainland Australia, if a judgment were made to increase rents, we would normally say, I think, that organisations had to pay the increase in the rent and we would not necessarily say that that was a failure in consultation.⁵⁸
- 3.58 The Committee notes that in a supplementary submission to the inquiry, lodged following the public hearing in Canberra, DOTARS explained that market rents for all Commonwealth non-residential properties in the IOTs are assessed by the Valuation Services branch of the WA Department of Land Information under an SDA, in accordance with WA applied laws. Consultants are contracted to collect rent and manage properties, but are not responsible for setting rents. DOTARS noted that the telecentre on Cocos pays a 'peppercorn rent' of \$1 per week, but may have been subject to a recent decision to pass all outgoing expenses for repair and maintenance onto tenants. This policy has been suspended subject to further consideration and consultation, and non-residential tenants have been advised 'that they are only required to pay rent (if applicable), electricity and water consumption charges until further notice'.⁵⁹

57 See *Transcript of Evidence*, 1 February 2006, pp. 23–4.

58 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, pp. 27–9.

59 Department of Transport and Regional Services, Submission no. 18, pp. 33–4.

Committee conclusions

3.59 From the Committee's perspective, DOTARS' initial response was inadequate. The Cocos (Keeling) Islands are not mainland Australia, the impact of seemingly trivial decisions can be quite significant, and DOTARS is ultimately responsible for the welfare of the IOTs communities. DOTARS should retain ultimate responsibility for setting rents on Commonwealth property, or it should divest itself of that property to the community. The Committee is gratified to learn that this matter is being subjected to further consideration.

The view from Christmas Island

3.60 The view from Christmas Island is very different to that from Cocos, and that from Canberra. On a range of issues, evidence from Christmas Island is in direct contention with that of DOTARS. In its submission, the Shire of Christmas Island argued that 'the Commonwealth has done effectively very little to involve, engage or facilitate the community in its own economic development'.⁶⁰ Rather, it is the Shire's belief that the Australian Government's policies have undermined the economic viability of the IOTs.

3.61 From the perspective of economic development, the Shire of Christmas Island identified two principle failings in government policy. The first major area of concern is the policy of 'normalisation', which is seen as undermining the social cohesion and economic self-sufficiency of the community. The Committee has already addressed this in principle in the current chapter, and deals with specific issues such as 'market testing' in chapter four. The second major issue is a tendency to rely on major capital projects rather than sustained investment to underpin the economy. In its submission the Shire states:

Like all other areas of Island life, the Commonwealth have considerable control of economic development. However, little has been done to foster economic development and overall the Commonwealth has looked to capital expenditure as a quick fix or fillip in the place of sustained investment.⁶¹

3.62 Examples of this trend are the IRPC, the APSC and the community recreation centre. The Committee notes that far from being seen as a

60 Shire of Christmas Island, Submission no. 10, p. 62.

61 Shire of Christmas Island, Submission no. 10, p. 66.

benefit to the Christmas Island community, the IRPC is considered a burden. Mr Gordon Thomson told the Committee:

We currently have the economic fillip of the construction of the detention centre, albeit that most of the money generated is going off the island. What future is there beyond the construction phase? The idea of the IRPC is a bad one. The island does not want its future economy based on a detention industry. It has the potential to detract from other economic developments such as tourism.⁶²

- 3.63 Moreover, the Committee observes that in the absence of a major influx of illegal immigrants, the IRPC is likely to remain underutilised, duplicating facilities on the mainland and elsewhere. Another potential white elephant is the APSC. Mr Thomson suggested that the APSC 'has failed, and a line needs to be drawn under it'.⁶³ In its submission the Shire of Christmas Island recommends setting a timeframe for a decision on the APSC development:

If the proponent does not meet its commitments as per the APSC ordinance, the industry assistance funding earmarked for the project is either spent on the planned upgrades (such as the extension and improvements to the airport) or applied to other industry assistance for the benefit of the community, utilising an assessment process agreed by the community.⁶⁴

- 3.64 In evidence before the Committee, DOTARS indicated that the APSC project was under review by the Minister for Industry, Tourism and Resources.⁶⁵ The consequence of this was that government funds for projects supporting the APSC would in all likelihood be withdrawn.⁶⁶ The Committee notes media reports to the effect that the Australian Government has now withdrawn financial support for the APSC.⁶⁷
- 3.65 The community recreation centre represents a political decision taken with little apparent regard of the consequences for the community – a facility which the Shire claimed is designed for a population of 70,000 yet has been given to a population of around 1,500. Mr Thomson outlined the process by which the community acquired the recreation centre:

62 Mr G. Thomson (Shire of Christmas Island), *Transcript of Evidence*, 30 January 2006, p. 6.

63 Mr G. Thomson (Shire of Christmas Island), *Transcript of Evidence*, 30 January 2006, p. 6.

64 Shire of Christmas Island, Submission no. 10, p. 73.

65 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 13.

66 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 16.

67 *The Australian*, 26 April 2006, p. 7.

We have a recreation centre that you saw yesterday that came about from a political deal. Mr Snowden spoke with Mr Ruddock and they came up with \$8 million because we had been complaining that the sports hall down here was not a place to put human beings – and it was not.

So, after some years of pressure, it was agreed that the government would put up \$8 million and we would have a dual purpose community facility and a place to house refugees in decent accommodation, who are arriving periodically over a period of 10 years. The government decided that an \$8 million facility was not good enough – they wanted a \$200 million one. They decided to build this other thing. I said, ‘You can keep the \$8 million and it will not be a dual purpose facility; it will be a recreation centre for the community completely and you can have this and you can have that.’ It is by accident, Senator Joyce, that we have a beautiful and magnificent facility which is designed for a population of 70,000 people. It is not something we said we had to have but it was a commitment that the government honoured. It was just an accident. We do have a magnificent facility, that is true.⁶⁸

3.66 The problem now is that the community are stuck with a facility they cannot afford. In its submission, the Shire of Christmas Island stated:

The centre was designed and located without effective involvement of the community, despite the fact that it is a community facility. As a previous Minister for Territories put it, ‘you’re going to get this recreation centre whether you like it or not’.

The Centre is essentially unaffordable. The community will have to rely on Government support to the tune of around \$750,000 per annum to operate the facility. A mainland centre of a comparable size would have a catchment population of around 50,000 people. And a local government operating such a centre would be working on a subsidy of around 8 cents per visit. By contrast the Christmas Island community is around 1,400 people and the subsidy per visit has been estimated at \$23.⁶⁹

3.67 At its hearing in Canberra, the Committee received assurances from DOTARS that the Shire of Christmas Island was receiving funding for the

68 Mr G. Thomson (Shire of Christmas Island), *Transcript of Evidence*, 30 January 2006, p. 25.

69 Shire of Christmas Island, Submission no. 10, p. 63.

upkeep of the recreation centre.⁷⁰ In its supplementary submission to the inquiry, following its appearance at the public hearing on 27 March 2006, DOTARS noted that the current agreement for the operation and maintenance of the recreation centre expires on 30 June 2006, but that the 'Australian Government will continue to provide funding for the operational and maintenance costs of the facility...subject to normal budgetary processes and approvals'.⁷¹ DOTARS' supplementary submission also outlined the community consultation process undertaken prior to the construction of the facility.⁷²

Committee conclusions

- 3.68 It would appear to the Committee that the current system of governance on Christmas Island is producing distorted outcomes. There is a high level of dissatisfaction with the performance of DOTARS, and considerable investment going into major projects of dubious value while the long term prosperity of the community is, at best, being ignored. There needs to be greater weight given to local opinion in decisions about future investment, particularly in infrastructure and major projects.

The Christmas Island Casino and Resort

- 3.69 If one issue highlights the link between governance and economic sustainability in the IOTs, that issue is the decision by the Australian Government in July 2004 to block the reopening of the Christmas Island Casino. That decision raises matters of consultation, transparency and accountability, and calls into question the appropriateness of the current framework of governance.
- 3.70 On 16 July 2004, the then Territories Minister, Senator the Hon. Ian Campbell, announced the Australian Government's decision to prevent the reopening of the casino. His statement highlighted the potential social impact of gambling upon the Christmas Island community:

In the interests of the Christmas Island community, the Australian Government has decided to make legislative changes to prohibit casino operations on Christmas Island.

"Gambling has become a major social concern in today's society and the challenge for the Australian Government is to find a

70 See *Transcript of Evidence*, 27 March 2006, p. 11.

71 Department of Transport and Regional Services, Submission no. 18, p. 19.

72 Department of Transport and Regional Services, Submission no. 18, pp. 17-18.

response which considers not only the financial aspects of a casino in the Territory, but takes into consideration the social impacts as a consequence of gambling.” Senator Campbell said.

“To that extent, the Government is concerned about the impact a casino would pose to the social fabric of the Christmas Island community and the dislocation to families that problem gambling can cause.”

“I would like to take this opportunity to reiterate my strong belief that tourism has the potential to represent significant economic activity on Christmas Island and I foresee the reopening of the Christmas Island Resort as a substantial contribution to the Christmas Island economy” he said.⁷³

- 3.71 Mr Thomson, in his evidence before the Committee, described this decision as ‘a killer’, leaving investment and employment in limbo, and highlighting the lack of coherent planning behind the decision making affecting the Island community.⁷⁴ Captain O’Donnell described the decision as ‘a very bad decision from the very highest level of government’.⁷⁵ Mr Russell Payne, President of the Christmas Island Chamber of Commerce, emphasised the damage done to Christmas Island’s reputation internationally as a place to invest.⁷⁶ In its submission, the Shire of Christmas Island questioned the rationale of the decision:

The reasoning given in the ‘no casino licence’ decision was, if it is to be believed, that the Government was “concerned about the impact a casino would pose to the social fabric of the Christmas Island community”. This is paternalistic justification, not sensible reasoning based on fact or careful consideration. It also ignored repeated emphasis on the casino as an important facilitator of economic development, and resultant community expectation.

The justification is also nonsensical. A casino operated on the Island within the CI Resort from 1993 to 1998. Over 300 jobs were created, many of them going to long term Island residents, and other social and economic benefits flowed into the community.

One study was undertaken during this period about the casino’s social and economic impact. There were some social problems

73 Senator Hon Ian Campbell, Media Release, 16 July 2004, C76/2004.

74 Mr G. Thomson (Shire of Christmas Island), *Transcript of Evidence*, 30 January 2006, pp. 12–13.

75 Captain N. P. O’Donnell (Christmas Island Chamber of Commerce), *Transcript of Evidence*, 30 January 2006, p. 42.

76 Mr R. Payne (Christmas Island Chamber of Commerce), *Transcript of Evidence*, 30 January 2006, p. 32.

associated with the casino, as there are social problems anywhere, but as the report identified, any negative impacts could have been/be addressed through programs for residents and workers at risk, measures to promote inclusiveness, cooperation and community cohesion, improved infrastructure, extended educational opportunities and a greater Government commitment to the island.⁷⁷

- 3.72 Moreover, according to the Shire of Christmas Island, the decision raises questions about the accountability and transparency of government, both for the decision itself and the way in which it was announced:

The decision against a casino license was unaccountable in all senses of the word. The community didn't believe the reason given, still don't, and are still waiting a reasoned explanation. As the community expressed it in their open letter to Minister Lloyd in August last year –

“We look forward to more information about why this decision was made because we don't believe your government when it says that it was concerned about the impact of a casino on our 'social fabric'. Nothing else your Government does shows any real interest in our social fabric.”

Whatever the real reason for the decision (and there has been plenty of conjecture about what motivated the Government to 'do a back flip'), it was not in consideration of, or support for, this community, and the government have never satisfied the community as to why it was made.

The way in which the 'no casino licence' decision was announced was also unaccountable. Since 2003 the Minister for Territories at the time, Senator Ian Campbell, had indicated his support for a casino licence. This support was still being given up until two days before he announced that a casino licence wouldn't be granted. His last act as out-going Minister for Territories was to make this announcement. He escaped his critics – this community – and left the incoming Minister for Territories with the convenient answer 'I don't know why the decision was made.'⁷⁸

77 Shire of Christmas Island, Submission no. 10, pp. 27–8.

78 Shire of Christmas Island, Submission no. 10, pp. 28–9.

- 3.73 Much of the evidence received from Christmas Island highlighted the benefits to the community of having this major avenue of employment and investment available. The evidence also emphasised the importance of the casino as the foundation for further economic activity. In evidence before the Committee, Mr Michael Asims of the Christmas Island Chamber of Commerce, spoke of the impact of the casino's closure:

During the operation of the original resort casino from 1993 until 1998, in excess of 400 staff were employed at the resort. With a known population at that time of approximately 2,200, this represented around 20 per cent of the total population. Many islanders were employed in various departments at the resort, ranging from gaming to food and beverage and hotel operations. With the closure of the resort in 1998, many of the local employees became unemployed or had to take on lower paying jobs in local small businesses. The cumulative loss of income has had a profound effect on the workforce and local businesses support the community. There are no official statistics kept on unemployment levels on this island. However, it is a well known fact that in excess of 10 per cent of the workforce is currently unemployed. In addition to this, the island phosphate mine is in the process of winding down operations. Once this occurs, the level of unemployment on Christmas Island will increase alarmingly. Many of these long-term island residents are contemplating the closure of their businesses and relocating to the mainland where employment and education for their children is assured.⁷⁹

- 3.74 Moreover, without the casino, Mr Asims told the Committee, the resort and all the things that went with it were not viable:

We spoke to a number of potential investors. They did visit the island and they did conduct feasibility studies to open the casino as a resort facility, rather than a gaming facility. On all occasions, those people decided that this property could not survive simply with tourism. It is also very interesting to note that the highest occupancy this resort ever enjoyed, even at its peak, was 28 per cent overall, but it did not matter. It could have stayed at five per cent, because it made all its money from a very, very small percentage of its visitors, and that was the gaming visitors. It did support airlines. It did support a number of things on the island, but without the revenue stream of the gaming operation, it could

⁷⁹ Mr M. Asims (Christmas Island Chamber of Commerce), *Transcript of Evidence*, 30 January 2006, p. 33.

not do so, and it can never do so in the future. Yes it was looked at for a resort, but it was never, ever going to be a resort.⁸⁰

- 3.75 When questioned about its view of the future prospects for the casino, DOTARS stated:

The closure of the casino and the resumption of the licence is a matter of government policy and I do not believe that I can comment on government policy decisions.⁸¹

Committee conclusions

- 3.76 The Committee has had first hand experience of the rumours and innuendo surrounding the casino license decision,⁸² to which it gives no credence. It notes, however, that the lack of transparency and accountability in the decision making process raises serious concerns about the structure of governance in the IOTs. It is the Committee's view that such a far reaching decision should not have been made without consultation with the affected communities.
- 3.77 It is the Committee's view that the decision to block the licensing of a casino on Christmas Island should be immediately reviewed in consultation with the Christmas Island community, with a view to reopening the casino at the earliest opportunity.

Recommendation 1

- 3.78 **The Committee recommends that the Australian Government review the decision to block the licensing of a casino on Christmas Island, in consultation with the Christmas Island community, with a view to reissuing a casino licence, at the earliest opportunity.**

The Sorensen Case

- 3.79 Another example of governance impacting on economic activity is highlighted by the case of Mr John Sorensen and his company, Northern
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80 Mr M. Asims (Christmas Island Chamber of Commerce), *Transcript of Evidence*, 30 January 2006, p. 40.

81 Ms S. Page (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 18.

82 See, for example, *Transcript of Evidence*, 30 January 2006, p. 12; 22 February 2006, p. 26.

Bay Pty Ltd. Northern Bay has a history of land purchase and development on Christmas Island. In September 2000, Northern Bay purchased Location 448 Phosphate Hill Road with the intention of subdividing it and redeveloping it as a serviced estate to provide for the expected expansion in population following the announcement of the IRPC and the APSC.⁸³ However, as Mr Sorensen related in his evidence before the Committee in Perth, when the tender for housing was announced, he and other developers found themselves facing competitors with access to free Commonwealth land:

When the announcement came for the tender of government housing in connection with the immigration centre, the government offered in the tender document for construction firms to build either on privately owned, fully developed land, for which they naturally would have to pay market price, or on free Commonwealth land which was provided by the Commonwealth. Of course, as could be expected, free land was chosen. We believe the Commonwealth government acted unethically and illegally – possibly strong words – with reference to their own policy statement of competitive neutrality, as quoted in the submission, where competition cannot be unfairly pushed on private enterprise.⁸⁴

3.80 The consequence for Northern Bay is that ‘we have developed land which we have been unable to sell due to the Commonwealth’s action’. The consequence for Christmas Island was a severe depreciation of property values in the market:

I here refer to the Valuer General’s report and decision to lower the value for which tax is calculated. He lowered the values and in his reason for the decision he stated, as per my submission, that it was due to the Commonwealth government entering into the construction of Commonwealth housing on free Commonwealth land. Values have fallen and land is close to impossible to sell on Christmas Island today.⁸⁵

Committee conclusions

3.81 The Committee believes that Mr Sorensen has a strong case. He entered the property market in good faith, believing that he was operating on a

83 Northern Bay Pty Ltd, Submission no. 13, p. 2.

84 Mr J. Sorensen (Northern Bay Pty Ltd), *Transcript of Evidence*, 22 February 2006, p. 17.

85 Mr J. Sorensen (Northern Bay Pty Ltd), *Transcript of Evidence*, 22 February 2006, p. 17.

level playing field. He has been injured by the apparent decision of the Government to suspend the principle of 'competitive neutrality' in the case of the Christmas Island property market. He is not 'asking for a handout, but recognition that the Commonwealth has done wrong'.⁸⁶ The Committee believes that the Australian Government should purchase Location 448 Phosphate Hill Road at full market value.

- 3.82 Moreover, the Committee believes that the damage done to the fledgling Christmas Island property market must be recognised and addressed. The Committee is of the view that in future all land released on Christmas Island should be released at full market value. This will ensure the stability of the market and a fair return on investment for legitimate developers.

Recommendation 2

- 3.83 **The Committee recommends that the Australian Government adopt the policy that, in future, all Commonwealth land released for development on Christmas Island, is sold at full market value.**

Recommendation 3

- 3.84 **The Committee recommends that the Australian Government compensate Northern Bay Pty Ltd through the purchase of Location 448 Phosphate Hill Road at full market value, or by some other means.**

Other issues

- 3.85 A number of issues relating to economic sustainability but only indirectly to governance arose during the course of the inquiry. The Committee addresses the more significant of those in this section.

Freight costs

- 3.86 In evidence before the Committee, Mr Bill Price, CEO of the Cocos (Keeling) Islands Shire Council, raised the impact of freight costs upon the

86 Mr J. Sorensen (Northern Bay Pty Ltd), *Transcript of Evidence*, 22 February 2006, p. 18.

economy of the Cocos (Keeling) Islands, and argued that this ‘cost is stifling a lot of development’:

The sea freight is a real issue for the community. It is becoming enormously expensive. We also have the added cost of \$25 customs fee per consignment. Even if you buy one article from Bunnings it is \$25 and then 50 articles from somewhere else it is \$25. Every supplier has an additional \$25.⁸⁷

3.87 Mr Price noted that charges for sea freight to Cocos were ‘\$425 a cubic metre...which is double Christmas Island’.⁸⁸ He suggested a solution similar to the airlines ‘where the Commonwealth have decided who the airline provider is’. He argued for an investigation into sea freight, ‘whether there could be some healthy competition or a tender let over several years’.⁸⁹

3.88 The Committee also received evidence on the impact of air freight charges in the IOTs. Mr Kel Watkins, the proprietor of Freightshop, the air freight consolidator for the IOTs, highlighted the impact of quarantine charges on goods coming into Australia from the IOTs, especially goods travelling there and back. As he noted, ‘the territories are treated as an international destination...that flummoxes a lot of people who think they are staying in Australia’.⁹⁰ The cost of importation of goods is as follows:

- Goods under \$1000 not requiring quarantine inspection, \$57.50.
- Goods under \$1000 requiring computer checks, \$107.
- Goods under \$1000 requiring quarantine inspection, \$199.
- Goods over \$1000 not requiring quarantine inspection, \$188.
- Goods over \$1000 requiring quarantine inspection, \$330.⁹¹

3.89 In addition, goods over \$1000 face customs charges and brokerage fees.⁹² Mr Watkins stated:

My submission is on behalf of the islanders. There is nothing in it for Freightshop either way. My submission is about goods that

87 Mr B. Price (Cocos (Keeling) Islands Shire Council), *Transcript of Evidence*, 1 February 2006, p. 25.

88 Mr B. Price (Cocos (Keeling) Islands Shire Council), *Transcript of Evidence*, 1 February 2006, p. 24.

89 Mr B. Price (Cocos (Keeling) Islands Shire Council), *Transcript of Evidence*, 1 February 2006, p. 25.

90 Mr K. Watkins (Freightshop), *Transcript of Evidence*, 22 February 2006, p. 39.

91 Mr K. Watkins (Freightshop), *Transcript of Evidence*, 22 February 2006, p. 39.

92 Mr K. Watkins (Freightshop), *Transcript of Evidence*, 22 February 2006, p. 40.

either go up to the islands and we know they are going to come back or goods that come down from the islands and we know that they are going to go back to the islands. It is the cost of getting those goods in. For example, if a tradesman tenders for a small job and takes up his toolbox with 100 kilos of tools, when he comes back he might find that, because they are tools, Quarantine wants to see them and he has got a \$330 charge to get his tools back into the country. However, if they were under \$1,000 and Quarantine did not want to see them, it would be \$57.50.

A lot of people get caught. They think, 'This is Australia but I've got to pay to get my stuff back.' Surgical equipment quite often goes up to the hospitals for a one-off surgical procedure. It might be a \$50,000 machine but it goes up. Obviously it is surgically cleaned up there but still, because it is surgical equipment, Quarantine say they want to see it so it is \$330 to get it back into the country. If somebody's car breaks down and they crack the cylinder head, normally it is cheapest to repair them so they send it down to get repaired, but it costs \$330 to get it into the country, and so on. So it is this area of goods that are going up there for a job and we know they are going to come back or goods that are sent down for calibration or repair that we know are going to go back to the islands. On the islanders' behalf, I feel that there should be another way to do this without it costing \$330. Basically that is my submission.⁹³

- 3.90 A solution offered by Mr Watkins is to create a separate customs and quarantine category for goods travelling both to and from the Territories, segregating them from genuine imports and exports, and removing quarantine and customs charges on those goods. This process would be managed by the freight consolidator.⁹⁴

Committee conclusions

- 3.91 The Committee sees some merit in Mr Watkins proposal, if it were able to be applied practicably. The Committee notes, however, that the aggregate cost of these fees represents a considerable impost upon the IOTs, regardless of the goods upon which they are imposed. Moreover, the benefit of excluding the IOTs from the mainland for the purposes of customs and quarantine accrues wholly to the mainland. This raises the

93 Mr K. Watkins (Freightshop), *Transcript of Evidence*, 22 February 2006, p. 39.

94 See Freightshop, Submission no. 1, pp. 1-2. See also Mr K. Watkins (Freightshop), *Transcript of Evidence*, 22 February 2006, pp. 42-3.

question of whether any goods travelling to or from the IOTs from the mainland should be subject to customs and quarantine charges at all. It is the view of the Committee that customs and quarantine charges should not be imposed upon goods travelling to or from the IOTs, and that the cost of inspection should rest wholly with the Commonwealth.

- 3.92 The Committee is also of the view that the Australian Government should carry out an investigation into the cost of sea freight to the IOTs, with a view to reducing costs and streamlining operations. Such a review could investigate the possibility of bringing goods to the islands from sources outside Australia, and using international operators for the transshipment of goods.

Recommendation 4

- 3.93 **The Committee recommends that the Australian Government conduct an investigation into the cost of sea freight to the Indian Ocean Territories with a view to reducing costs and streamlining operations.**

Recommendation 5

- 3.94 **The Committee recommends that the Australian Government rescind customs and quarantine charges, where they exist, on freight travelling between the Indian Ocean Territories and the Australian mainland.**

Air travel

- 3.95 Problems with air travel between the mainland and the IOTs were also brought to the attention of the Committee. In his submission, Mr K. Dallimore indicated that given the number of flights travelling to and from the IOTs, particularly at peak tourist times, the aircraft being used were too small, making it difficult to secure seats without booking months in advance. Moreover, he noted that air fares were expensive, excess baggage charges were very expensive, and flights from the IOTs connected poorly with flights to eastern states, necessitating stopover in Perth.⁹⁵

95 Mr K. Dallimore, Submission no. 9, pp. 1-2.

3.96 Mr Sorensen also raised the cost of airfares. He suggested a direct subsidy to reduce fares, the return from which would be increased tourism to the IOTs, and therefore increased employment. Alternatively, he suggested that the Government could legislate to make major carriers adopt the IOTs air route as part of their scheduled services.⁹⁶

3.97 In evidence to the Committee, Mr Price also identified flight bottlenecks as a serious problem, with consequences for the economic development of the IOTs:

The problem we have for Cocos is that at the moment the NJS plane has 60 or 65 seats. There is a large component of a contract that is going to Christmas Island at the moment for this DIMIA facility and they are taking up a lot of the seats. It is probably not affecting Christmas Island. They may be losing tourist numbers but that has been offset by their contract numbers for their local economy. We are missing out on tourist seats because they cannot get on the plane and there is a particular bottleneck between the islands. The other thing we cannot get here is group bookings unless you book six months in advance. With the Bali problems there are a lot of windsurfers, a lot of tourists who want 10 or 15 seats as a package deal, or even a few families, but you cannot book 15 seats on a NJS flight without booking six months in advance.⁹⁷

3.98 Mr Price suggested that the Commonwealth agree to underwrite additional flights to the Islands, as a way of increasing their tourism potential:

As I have said, the Commonwealth underwrite 120 flights and I think last year the Commonwealth had to pay very minimal money for the flights that did not pay for themselves. If there is a possibility of getting a few extra Saturday flights, or as Christmas Island are putting, or contractors going on a specific Saturday flight just for contractors, that would leave our tourism seats free. We are working quite extensively trying to market the islands, tourism is one of our biggest economic industries, but we are restricted by the number of bums in seats on the plane. That is one of our issues.⁹⁸

96 Northern Bay Pty Ltd, Submission no. 13, p. 6.

97 Mr B. Price (Cocos (Keeling) Islands Shire Council), *Transcript of Evidence*, 1 February 2006, p. 26.

98 Mr B. Price (Cocos (Keeling) Islands Shire Council), *Transcript of Evidence*, 1 February 2006, p. 26.

Committee conclusions

- 3.99 The Committee sees considerable merit in improving air access to the IOTs, especially given that it is the only means of access generally available. While the Committee is reluctant to recommend direct subsidies for air fares, it believes increasing the number of flights underwritten by government would be a simple and cost effective means of improving accessibility. The Committee also notes that the reopening of the Christmas Island Casino could significantly increase demand for flights in and out of the Territories. This should see an increase in commercial flights and provide greater competition in the provision of air services, reducing the need for future subsidies.

Recommendation 6

- 3.100 **The Committee recommends that the Australian Government increase the number of flights between Australia and the Indian Ocean Territories under the existing contract, and invite international carriers to open services to the IOTs.**

Commonwealth law

- 3.101 Another issue raised with the Committee was the exclusion of the IOTs from Commonwealth laws. Ms Margaret Robinson, CEO of the Shire of Christmas Island, highlighted the exclusion of the IOTs from the Commonwealth corporations law, observing: ‘You cannot register a company on Christmas Island.’⁹⁹ The Committee notes that when this issue was raised with DOTARS at the Canberra public hearing, there was initially some confusion as to whether or not Commonwealth corporations law applied in the IOTs.¹⁰⁰
- 3.102 Another anomaly brought to the attention of the Committee was the exclusion of the IOTs from the operation of the *Education Services for Overseas Student Act 2000*. As Mr Payne indicated, this prevents the IOTs from offering education services to overseas students:

The ESOS Act – which is a Commonwealth act – governs the way you manage overseas students. The school is designed to have

99 Ms M. Robinson (Shire of Christmas Island), *Transcript of Evidence*, 30 January 2006, p. 16.

100 Ms S. Page & Ms A. Clendinning (Department of Transport and Regional Services), *Transcript of Evidence*, 27 March 2006, p. 33.

overseas paying students in it, and we actually started cranking it up in the chamber to get this started. We looked up the act and we were specifically excluded. It said 'a state', but when you looked up the definition of 'a state' it said just about everywhere in the world except Christmas and Cocos Islands, and there are a lot of those acts. This is the thing. We do not have that representation. The act itself only set up the regulations. Why exclude anybody? Why not say, 'If you want to do it, here are the rules.'¹⁰¹

- 3.103 The issue of the IOTs exclusion from the *Education Services for Overseas Student Act 2000* was previously addressed by the Committee in its review of the administration of the IOTs – *Indian Ocean Territories: Review of the Annual Reports of the Department of Transport and Regional Services and the Department of Environment and Heritage* (August 2004). The Committee recommended in that report that the Act be amended to include the IOTs.¹⁰² In its response to that report the Government indicated that the matter was under review,¹⁰³ but to date the Committee is not aware of any change to the law. It therefore reiterates the recommendation made previously.

Committee conclusions

- 3.104 The Committee sympathises with the frustration of the islanders about their apparently arbitrary exclusion from Commonwealth laws, and recommends that:
- corporations law and the *Education Services for Overseas Student Act* be amended to include the IOTs;
 - the Australian Government review all legislation to identify and rectify similar anomalies; and
 - in future, the IOTs are excluded from the provisions of new legislation only where such exclusion can be demonstrated as necessary.

101 Mr R. Payne (Christmas Island Chamber of Commerce), *Transcript of Evidence*, 30 January 2006, pp. 45–6.

102 Joint Standing Committee on the National Capital and External Territories, *Indian Ocean Territories: Review of the Annual Reports of the Department of Transport and Regional Services and the Department of the Environment and Heritage*, Parliament of the Commonwealth of Australia, August 2004, pp. 21–2.

103 Government response to the Joint Standing Committee on the National Capital and External Territories Report: *Indian Ocean Territories: Review of the Annual Reports of the Department of Transport and Regional Services and the Department of the Environment and Heritage*, August 2004, presented 18 August 2005, p. 5.

Recommendation 7

3.105 The Committee recommends that the Australian Government take action to ensure that:

- corporations law be amended to include the IOTs;
- the *Education Services for Overseas Student Act 2000* be amended to include the IOTs as a possible destination for overseas students;
- a review of all Commonwealth legislation is conducted to identify and rectify similar instances where the Indian Ocean Territories are excluded from legislation; and
- in future, the IOTs be included under the provisions of new legislation except in instances where exclusion can be demonstrated as justified.

