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The Parliament of the Commonwealth of Australia

# Current and future governance arrangements for the Indian Ocean Territories

Joint Standing Committee on the National Capital and External Territories

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Canberra

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## Foreword

In recent years, the Committee has taken a close interest in issues of governance in Australia's external territories. The Committee has produced two reports on the governance of Norfolk Island in 2005 which led the Australian Government to the view that current governance and financial arrangements on Norfolk Island are unsustainable and that an alternative is urgently needed.

An inquiry reviewing departmental operations in the Indian Ocean Territories (IOTs) undertaken by the Committee in 2003–04 revealed that closer investigation of governance issues affecting the IOTs was necessary. The Committee has also, therefore, pursued an inquiry into current and future governance arrangements for the IOTs, resulting in this report.

The evidence presented to the Committee during this inquiry revealed that the system of governance in the IOTs requires attention. There needs to be greater transparency and accountability in decision-making by the Federal government. There also needs to be greater consultation between the Federal government, including its departmental representatives, and the community. The Committee believes that this needs to operate not only at the level of personal interaction between departmental officers and IOTs residents – systematic processes for consultation and accountability need to be put in place. This is especially true of the processes surrounding the application of Western Australian laws in the IOTs and the implementation of Service Delivery Arrangements.

The Committee has also observed the close linkage between governance and economic sustainability in the IOTs. The Committee believes that more effective, accountable and transparent governance arrangements are vital to any further economic development of the IOTs. The Committee makes a number of positive recommendations with regard to the future economic development of the IOTs.

The inquiry has also addressed broader issues of governance – the role of the Shires of Christmas Island and Cocos (Keeling) Islands, the aspirations of IOTs residents for more representative governance arrangements, and options for the future governance of the IOTs. The options canvassed by the report include

maintaining current governance arrangements with some refinement; incorporation of the Indian Ocean Territories into Western Australia; and some form of limited self government. On this point, the Committee wishes to strike a note of caution. The experience of Norfolk Island reveals that there are limits to the level of self government small isolated communities can enjoy. Whatever alterations to the system of governance ultimately result from this inquiry, they should be the result of careful consideration, close consultation with the Islands' communities, and a realistic appreciation of what can be achieved.

My colleagues and I would like to thank all those who participated in this inquiry. We are especially grateful for the generous reception we received when we visited Christmas Island and the Cocos (Keeling) Islands. The residents of the IOTs may rest assured that the Committee will take a keen and positive interest in their future.

Senator Ross Lightfoot  
Chairman



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## Membership of the Committee

Chair            Senator Ross Lightfoot

Deputy Chair   Senator Kate Lundy (from 29/03/06)

                  Senator Trish Crossin (to 28/03/06)

Members        The Hon. Ian Causley MP

                  Ms Annette Ellis MP

                  Mr Paul Neville MP

                  Ms Sophie Panopoulos MP

                  Mr Patrick Secker MP

                  The Hon. Warren Snowdon MP

                  Senator Kim Carr (from 08/12/05)

                  Senator John Hogg

                  Senator Barnaby Joyce (from 16/08/05)

                  Senator Kate Lundy (from 10/08/05)

                  Senator Kerry O'Brien (to 10/08/05)

                  Senator Nigel Scullion (to 16/08/05)

                  Senator Natasha Stott Despoja

## Committee Secretariat

Secretary                    Mr Stephen Boyd

Inquiry Secretary         Dr William Pender

Senior Research Officer   Mr Justin Baker

Administrative Officers    Mr Cameron Carlile

                                  Ms Natasha Petrovic





## Terms of reference

On 11 May 2005, the Senate asked the Joint Standing Committee on National Capital and External Territories to inquire into current and future governance arrangements for the Indian Ocean Territories, with particular reference to:

- a. accountability and transparency of decision-making in relation to the Indian Ocean Territories;
- b. the role of the Shire of Christmas Island and the Shire of Cocos (Keeling) Islands;
- c. aspirations of the residents of Christmas Island and Cocos (Keeling) Islands for more representative governance arrangements;
- d. the link between more effective governance and improved economic sustainability for the Indian Ocean Territories;
- e. the operation of Western Australian applied laws;
- f. community service delivery including the effectiveness of service delivery agreements with the Western Australian Government; and
- g. proposals for reform of governance arrangements.



## List of abbreviations

APSC	Asia Pacific Space Centre
CCC	Community Consultative Committee
CEO	Chief Executive Officer
CI	Christmas Island
CKI	Cocos (Keeling) Islands
CKIEDA	Cocos (Keeling) Islands Economic Development Association
DOTARS	Department of Transport and Regional Services
EDA	Economic Development Association
IOTs	Indian Ocean Territories
IRPC	Immigration Reception and Processing Centre
JSCNCET	Joint Standing Committee on the National Capital and External Territories
SDA	service delivery arrangement
WA	Western Australia



## List of recommendations

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

#### **Recommendation 1 (para 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.

#### **Recommendation 2 (para 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 (para 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.

#### **Recommendation 4 (para 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 (para 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.

**Recommendation 6 (para 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.

**Recommendation 7 (para 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.

## **4 Applied WA law and community service delivery**

**Recommendation 8 (para 4.25)**

The Committee recommends that, as a matter of priority, the Australian Government allocate sufficient resources to implement a program for reviewing all Western Australian legislation currently applied as Commonwealth law in the Indian Ocean Territories, with a view to repealing, or amending, all legislation which cannot be practically applied in the Territories.

**Recommendation 9 (para 4.28)**

The Committee recommends that, following a review of existing applied Western Australian legislation, the Australian Government allocate sufficient resources for the ongoing monitoring of new, amended, or proposed Western Australian laws which apply, or will apply, in the Indian Ocean Territories as Commonwealth law.

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**Recommendation 10 (para 4.52)**

The Committee recommends that the Australian Government cease its policy of market-testing and outsourcing to third parties services which it currently provides to the Indian Ocean Territories, with a view to promoting the development of community capacity within a framework of enhanced local/regional government.

**Recommendation 11 (para 4.67)**

The Committee recommends that Section 8 of both the *Cocos (Keeling) Islands Act 1955* and the *Christmas Island Act 1958* be amended to include a framework for consultation with the Indian Ocean Territories communities in relation to service delivery arrangements with the State of Western Australia, and in the review of Western Australian legislation which is applied in the territories as Commonwealth law.

## 5 Governance of the Indian Ocean Territories

**Recommendation 12 (para 5.78)**

The Committee recommends that the Australian Government alter the governance arrangements of the Indian Ocean Territories to provide the Shire of Christmas Island and the Shire of Cocos (Keeling) Islands with an expanded role. The shires should have:

- direct representation of the communities with the Minister for Territories; and
- a formal advisory capacity with regard to applied laws and service delivery arrangements.

Moreover, the shires should be:

- fully funded on the basis of an agreed service delivery framework;
- given adequate title to all assets required to carry out their functions; and
- able to jointly enter into a regional local government type cooperation agreement.

**Recommendation 13 (para 5.79)**

The Committee recommends that the Australian Government undertake to develop options for future governance for the Indian Ocean Territories in conjunction with the communities on Christmas Island and the Cocos (Keeling) Islands, with a view to, where practical, submitting options to a referendum of those communities by the end of June 2009. Possible options could include but should not be limited to:

- maintaining current governance arrangements with some refinement;
- incorporation into the State of Western Australia; and
- a form of limited self government.

