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JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL
AND EXTERNAL TERRITORIES

Reference: Governance arrangements for the Indian Ocean territories

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

Monday, 27 March 2006

Members: Senator Lightfoot (*Chairman*), Senator Crossin (*Deputy Chair*), Senators Hogg, Joyce, Lundy and Stott Despoja and Mr Causley, Ms Annette Ellis, Mr Neville, Ms Panopoulos, Mr Secker and Mr Snowdon

Members in attendance: Senators Crossin and Lightfoot and Mr Causley and Mr Snowdon

Terms of reference for the inquiry:

To inquire into and report on 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.

WITNESSES

BERESFORD-WYLIE, Mr Adrian, Acting Executive Director, Territories, Local Government and Natural Disaster, Department of Transport and Regional Services 2

CLENDINNING, Ms Anna, General Manager, Territories, Department of Transport and Regional Services..... 2

PAGE, Ms Susan Lee, Deputy Secretary, Department of Transport and Regional Services..... 2

Committee met at 9.34 am

CHAIRMAN (Senator Lightfoot)—I declare open this public hearing of the Joint Standing Committee on the National Capital and External Territories for this important inquiry into current and future governance requirements for the Indian Ocean territories. This is the fourth and final hearing of the inquiry. This inquiry was referred to the committee by the Senate on 11 May 2005. At the conclusion of the inquiry, the committee will table its findings, conclusions and recommendations in the parliament in a report which will be publicly available. The committee normally authorises submissions for publication, and they will be placed on the committee's website. To date, the committee has received 13 submissions from interested parties. If you would like further details about the inquiry, please ask any of the secretariat staff present at the hearing for assistance.

[9.35 am]

BERESFORD-WYLIE, Mr Adrian, Acting Executive Director, Territories, Local Government and Natural Disaster, Department of Transport and Regional Services

CLENDINNING, Ms Anna, General Manager, Territories, Department of Transport and Regional Services

PAGE, Ms Susan Lee, Deputy Secretary, Department of Transport and Regional Services

CHAIRMAN—Welcome. I remind witnesses that, although the committee does not require you to give evidence under oath, this hearing is a legal proceeding of the parliament and warrants the same respect as the proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of the parliament. The committee has received a submission from the Department of Transport and Regional Services, which it has numbered 12. Are there any corrections or amendments you would like to make to your submission?

Ms Page—No.

CHAIRMAN—The committee prefers that evidence be taken in public, but if you wish to give confidential evidence you may request that the hearing be held in camera and the committee will consider your request. Do you wish to make an opening statement before we go to questions?

Ms Page—No.

Mr SNOWDON—I assume that you have acquainted yourselves with the *Hansard* of the evidence given to the committee on Christmas Island.

Ms Page—We have read the *Hansard*.

Mr SNOWDON—Your submission notes that many of the minister's powers in relation to the IOTs had been delegated to officials. To what extent are decisions affecting the IOTs taken on the islands or in Canberra or Perth and what processes are in place to ensure that this delegated authority is not open to incompetence or abuse?

Ms Page—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.

Ms Clendinning—As general manager for territories, I have various delegations in relation to issuing licences 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.

Mr SNOWDON—Would you mind providing us with a list of the powers that have been delegated to you from the minister and, if they are to change, the future delegations as they will appear?

Ms Page—Yes.

Mr SNOWDON—You talked about resource allocation and major policy decisions. Could you inform us of what discussion may have taken place, either inside your department or with the residents of Christmas Island, about the decision made by the government not to award a casino licence on Christmas Island?

Ms Page—At the time of the decision, the then minister, Ian Campbell, issued a media release. We have no comments to make other than the government policy position as put in the media release at the time.

Mr SNOWDON—Were you involved in any discussions with the minister or the minister's office about that public policy position?

Ms Page—I would have to take that on notice. It predates me.

Mr SNOWDON—Could you please ensure that you do, and could you provide us with a time line of any discussions that may have taken place between you, your department and the minister's office about that issue?

Ms Page—We can undertake to take that on notice.

Mr SNOWDON—I am not asking you to take it on notice. I want you to provide it.

Ms Page—We would need to clear that with our minister.

Mr SNOWDON—You talked about SDAs. Could you tell us what the process is for the negotiation of SDAs with the Western Australian government? What participation is there with the Indian Ocean territories communities about those SDAs prior to their signature?

Ms Page—There is consultation generally, as I understand it, between our regional office staff, the staff of the relevant Western Australian agency and affected communities in the IOTs. Then there is further negotiation between our Perth office and the relevant Western Australian agency to conclude those agreements. At the conclusion, prior to expiry, there is a pre-expiry review of the arrangements, again with consultation with the relevant IOTs, and a review is done by the two relevant agencies.

Mr SNOWDON—Could you tell us precisely what the process is for discussion with the Indian Ocean territories themselves about the prospective signature of SDAs? Does it happen in every case?

Ms Page—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 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.

Mr SNOWDON—Could you tell us what the process is for discussion with the island territories on the application of Western Australian laws as legislation is passed?

Ms Page—My understanding is that in the majority of cases the consultation process would be similar. I certainly could not guarantee that there is consultation in relation to every small change to Western Australian law.

Mr SNOWDON—Let us be more specific. In relation to laws which may affect the Indian Ocean territories, what formal process of discussion or consultation is there with the island territories communities prior to the signature of the minister for approval of those laws to come into force?

Ms Page—I do not think I can add much more to what I have already said.

Ms Clendinning—Could I get clarification of what you mean when you say ‘signature of the minister’ bringing that into force?

Mr SNOWDON—The minister is responsible for all laws applying to the Indian Ocean territories. Ultimately, he must sign off on whether or not laws will apply in the territories. Is there a process that provides an—

Ms Clendinning—The laws apply immediately when the Western Australian—

Mr SNOWDON—I understand that. What I am asking you is: what process ensures that a view is expressed by the Indian Ocean territories about the implications of the application of any Western Australian law on those territories prior to those laws being enacted?

Ms Page—The laws are automatically enacted. The mechanism, as Ms Clendinning has described, is that the amendments to the Christmas Island Act and the Cocos (Keeling) Island Act ensure that Commonwealth law at any point in time is the prevailing Western Australian state government law.

Mr SNOWDON—I was the parliamentary secretary responsible for this particular area when these laws were changed. I understand the process. At the time, we put in place a consultation process which gave an opportunity for a view by the Indian Ocean territories to be expressed to the Commonwealth about the application of any Western Australian law. Is that process still in place?

Ms Clendinning—I am not aware of a process.

Mr CAUSLEY—This was a very big concern in both of the communities. Could you come back to us if you get some evidence about where, in some cases, the state law has been amended specifically as a result of the cultural concerns of those particular territories?

Ms Page—There have certainly been examples of where state law has been amended or where the Commonwealth has chosen to excise that part of state law. We could get back to you on that.

Mr CAUSLEY—That is fine. I just wanted to clarify that because it was a big concern to them. I understand that laws in many jurisdictions are archaic or not used or whatever, but there seemed to be a problem with some cultural things in some of the territories and maybe there needed to be an addendum to the state law which covered their particular concerns.

Ms Page—We will get back to you on that.

Mr SNOWDON—Do you have consultative committees on both the Indian Ocean territories communities?

Ms Page—There are consultative committees which we are not formally part of. There are consultative committees attached to the shires of both island territories. We arrange for consultation with those committees but we are no longer formally part of those committees.

Mr SNOWDON—Are there committees on both islands at the moment?

Ms Page—I believe so.

Mr SNOWDON—We understand that there is the prospective formation of a new committee on Christmas Island to facilitate communication between the community and the minister. This is in your submission. Can you tell us how that committee will be established, who will be on it and when it will meet?

Ms Page—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.

Mr SNOWDON—Could you explain to us what the current functions of the administrator are and how they may have changed over the last seven or eight years?

Ms Page—In general terms, the function of the administrator is twofold: it is to be the Australian government representative on the Indian Ocean territories and to assist the shire councils of both island territories to stimulate economic development and to assist them to promote it. The main change has been to withdraw the administrator over time in relation to the day-to-day administration of both island territories. It might be more helpful if we could provide you with formal advice on the charter for the administrator.

Mr SNOWDON—That would be good—thank you. Going back to the issue of Western Australian laws for a moment: what is the process, if any, that is followed to determine that the IOTs should be exempt from Western Australian law; and who arrives at the decision?

Ms Page—In general terms, the minister has the ability to excise relevant Western Australian provisions from the law. I have not experienced an exercise like this since I have been in this position. I would imagine that we would probably receive some advice from our Western Australian office and consult with the local community and act accordingly.

Mr SNOWDON—Could you come back to us with a summary of all laws which may have been amended in whole or in part, deferred or disallowed since this arrangement came into place?

Ms Page—In general terms, I can tell you that the following legislation does not apply: A New Tax System (Goods and Services Tax) Act 1999; the Aged Care Act 1997; the Biological Control Act 1984; the Customs Act 1901; the Departure Tax Collection Act 1978—

Mr SNOWDON—With respect: these are all Commonwealth laws; I am after Western Australian laws.

Ms Page—I am sorry. Western Australian ones we will have to give you further advice on.

Mr SNOWDON—Could you, while you are going through this list, explain to us, why these Commonwealth laws have been excluded from operation? What was reason that, for example, the Aged Care Act 1997 would not apply?

Ms Page—I do not know. I would have to take that on notice.

Mr SNOWDON—It would be useful if you could provide a summary as to why those laws do not apply.

Ms Page—Very well.

Mr SNOWDON—Can you tell us what the process is for reviewing the application of any Western Australian law?

Ms Page—I think it would be useful if we documented that on notice.

CHAIRMAN—As I understand it, notwithstanding the fact that the Western Australian Local Government Act is a state act, the Commonwealth administers that act as if it were a Commonwealth act. I am not aware of any Western Australian laws that are applicable to the territories. I may be wrong, but that is a point of clarification that may be needed there.

Mr CAUSLEY—What about criminal law?

CHAIRMAN—It is the Australian Federal Police, under the jurisdiction of—

Mr SNOWDON—But it is Western Australian criminal law.

CHAIRMAN—But I think they are administered by the Commonwealth as if they were—

Mr SNOWDON—Commonwealth laws—absolutely. Can you think of any areas where there may be conflict between federal law and Western Australian law?

Ms Page—I would rather not speculate. I would prefer to take that on notice.

Mr SNOWDON—To be specific, is there any conflict between the federal fisheries laws and Western Australian fisheries laws which may or do impact on fisheries management in the IOTs?

Ms Page—I am not an expert on fisheries law. I would need to take that on notice.

Mr SNOWDON—Could you make sure that you do, please? From the evidence given to us, we know that currently there is no process for consultation with the IOT communities with respect to the application of Western Australian laws.

Ms Page—It is unfair to characterise it quite that way. I do not believe that there is a systematic process in relation to every Western Australian legislative change.

Mr SNOWDON—From what we understand, there is not even a nominal process of consultation about any Western Australian law.

Ms Page—That is probably unfair. I would like to get back to you with advice on processes that may have existed in the past in relation to legislative change in Western Australia.

Mr SNOWDON—Can you tell us what role, if any, Western Australian agencies play in the consultative process if there is one?

Ms Page—Is that in relation to changes in Western Australian law?

Mr SNOWDON—Yes, or in relation to the application of any new Western Australian law, either prior to its passage or after it has passed the Western Australian parliament.

Ms Page—I will have to take that on notice.

Mr SNOWDON—When you come back to us, can you also let us know how the consultative process may have changed over time?

Ms Page—Yes, I can do that.

Mr SNOWDON—Do you believe that the Commonwealth has provided sufficient resources, information and advice to manage the system of applied laws and facilitate community understanding of those laws?

Ms Page—If the community is concerned about this, that is obviously something we should reconsider, and I am happy to do that.

Mr SNOWDON—I do not want to be the only person asking questions here, although I do have plenty to ask.

Mr CAUSLEY—I can take over a couple, if you like. On the SDAs, it was fairly strongly put to us on Christmas Island that they in fact believed that they as a council could deliver some of the services. In the negotiations on particular SDAs, would they be eligible to put in a bid to deliver some of the services?

Ms Page—In relation to services that are market tested by the Commonwealth—services that we would normally deliver—we certainly leave open the possibility that IOT shire councils could deliver them. In relation to the SDAs, that would be a matter for the relevant Western Australian government agencies and whatever policies they have in terms of the delivery of those services.

Mr CAUSLEY—Given that the Western Australian government provides a lot of the services there under contract, how do you assess whether in fact you are getting value for your dollar? Do you go to a tender system? Does the private sector have a chance to bid on this, or does it just involve negotiations with the Western Australian government?

Ms Page—They are negotiations with the Western Australian government, but the funds that we provide the Western Australian government are finite, so the interest of the Western Australian government is obviously in providing the most efficient service.

Mr CAUSLEY—There was a strong view by both the councils that they could have more input into the delivery of services and into, I suppose, the decisions taken that affected them. It comes back to Mr Snowdon's comment about negotiations between the department and the councils and whether that in fact can be improved. They said that it had improved. Could it be improved even further?

Ms Page—There are a range of consultation mechanisms on the SDA currently available. We have two staff on the island. We have a further 10 staff in Perth. We have arrangements in place for consultation generally prior to and at the completion of SDAs. There is no doubt, I would imagine, that the quality of consultation could be improved. But I suppose I would like to set that in context a bit. The servicing of remote territories is not an easy task for any government. Governments have to make choices about what the best ways of providing good services to those territories are. We have one example in the case of Norfolk Island, which has not proved, in the government's judgment to be sustainable. There is an enormous amount of work under way at the moment to change those arrangements.

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 direct 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.

Mr CAUSLEY—My experience in 22 years in politics is that if you keep people in the loop they are usually fair and reasonable. Even though they might not accept the decision, if you keep them informed and in the loop they are usually a lot happier.

Ms Page—I think that is correct. But, equally, you cannot always satisfy everybody in a single community all the time as well, and we recognise that.

Mr CAUSLEY—I accept that. These territories are costing the taxpayer quite a lot of money at the present time. With regard to the future of their own economic basis, how involved are we in the planning process, through the federal government, that puts some constraints on the ability of these territories to develop? In Christmas Island's case it would be to develop a bit more export of the phosphate. In the Cocos situation it would be the possibility of a tourist industry in that territory.

Ms Page—In relation to phosphate, the Minister for the Environment and Heritage is currently considering a request for nine new leases to extend the life of the phosphate mine. That is a consideration that he has at the moment. In relation to Cocos, we certainly support efforts by the Cocos shire to improve its attractiveness as a tourist facility. We have been working for some time with the Cocos community to develop a request for tender proposal for a tourist resort on that island.

Mr CAUSLEY—Finally, why has it taken so long to fix the crane on Christmas Island, which is their lifeblood?

Ms Page—We think that that is close. We have now had a report from the contractor who our office in Perth sent. Norman Disney and Young are the consultants who we have retained to provide advice on the crane. They sent a metallurgist to examine the crane, and they have prepared a preferred option for the repair of the crane pedestal. This involves pouring a new 1.5 metre concrete cap on top of the prepared existing pile cap, which will be bound to the existing cap by a means of 64 epoxy protective coated bars. New starter legs will be welded together, as a frame will be cast into the concrete. We are currently negotiating with a contractor to do that work. Our advice at the moment is that it should be weeks, rather than months, for the completion of that work. But that is subject to us getting a contractor to do that work. We are aware that the community and port users have experienced frustrations with the delay. We understand that entirely. Locations like Christmas Island are not easy places to service quickly. You cannot ring a repairman to get there. Within the limits of what we have been able to do, I think our Perth office has done a very good job in getting that result quickly. We now hope that the repairs can proceed speedily, because we understand how reliant the community is on that crane.

Mr SNOWDON—As I understand it, it was down for the second week of January. Is that right?

Ms Page—Yes, it was in January.

Mr SNOWDON—It is now two months later. We were on the island and when we left we were told that an engineer's report was going to be done then. That was in the middle of

February. It is now six weeks later effectively and we are just hearing now that you have a report from a consultant.

Ms Page—There was a two-stage process. The initial engineering report was done, and it indicated that there was a need for a metallurgist to provide specialised advice. There was a process that then had to be gone through to engage and send the metallurgist to the island to prepare a report. That report then had to be accepted by Norman Disney and Young. They then had to devise a plan on the basis of that expert advice for the repair of the crane.

Mr SNOWDON—Has any liability been accepted by the Commonwealth for the cost incurred by users of the port?

Ms Page—The Commonwealth has not accepted any liability yet. It is examining claims.

Mr SNOWDON—Do you accept that the port is the responsibility of the Commonwealth?

Ms Page—The port is the responsibility of the Commonwealth, but we are currently analysing claims that have been put forward.

Mr SNOWDON—To your knowledge, what has been the impact upon businesses on Christmas Island as a result of the crane being—

Ms Page—I can only comment in a generalised way. I understand that businesses have been affected. Certainly, the construction of the detention facility on Christmas Island has also been affected. The exact extent of people's economic loss I do not know at this stage.

Mr SNOWDON—Has the contractor for the detention facility enacted the force majeure articles of its agreement with the Commonwealth?

Ms Page—No, not to my knowledge.

Mr SNOWDON—Can I just go back to the issue of SDAs. To follow on from my colleagues question about the potential for the Indian Ocean Territories Shire Council to carry out the work under some of these SDAs, has there been any analysis done on their capacity to undertake the work that might otherwise be carried out by the Western Australian government for some of these SDAs?

Ms Page—I do not believe so. It is quite possible that some Western Australian agencies may have made assessments of the ability of the territories to deliver services when undertaking assessments themselves of the most cost-effective way to provide services. Certainly, some SDAs make use of local staff because that is a sensible and cost-effective way to do it.

Mr SNOWDON—Do you know of any cases where the Commonwealth has promoted or facilitated a discussion between the Indian Ocean Territories Shire Council and the Western Australian government for them to carry out the SDAs board?

Ms Page—I am not aware of any instances; there may have been though.

Mr SNOWDON—Can you tell us what the process of consultation was with the people of Christmas Island about the construction for the recreation centre on Christmas Island?

Ms Page—The construction of the centre has a varied history. It was initially proposed, as I understand it, as a facility that could be used jointly by staff at the detention or processing centre with some local involvement. It is now being provided essentially for local use, and an SDA has been struck with the Western Australian government to provide advice to the Christmas Island Shire on what access it could have to Western Australian grants for sport and recreation and also what access it can have to expert advice on sporting and recreational information.

Mr SNOWDON—Could you come back to us with a detailed outline of the process of consultation that took place with the Christmas Island community on the development of the design and construction of the facility?

Ms Page—We could do that, yes.

Mr SNOWDON—Could you also let us know who is going to pay for the ongoing upkeep of the facility?

Ms Page—The ongoing upkeep of the facility will be a Christmas Island Shire responsibility.

Mr SNOWDON—Are you saying that they have to meet the costs of the maintenance and ongoing upkeep of that through their own budget?

Ms Page—No. Does the asset remain a Commonwealth asset?

Mr Beresford-Wylie—The management has been taken over by the Christmas Island Shire Council, but I am aware that we provided some ongoing funding to assist with those management costs after reaching an agreement with the Christmas Island Shire Council.

Mr SNOWDON—I appreciate that, but my question is: how long term is that agreement?

Ms Page—We can provide some advice on that.

Mr SNOWDON—I understand the cost to be some hundreds of thousands of dollars, and given the size of the community it is unlikely that at this point they would ever be able to find the dough to be able to maintain the community out of their own resources.

Your submission refers to the employment impacts resulting from the reform of service delivery arrangements which have been put in place by the Commonwealth. Could you provide information regarding the jobs created and/or lost as a result of those arrangements, the impact on employment of locals, the overall impact on the wages received on the island territories and the overall consequences for economic activity in the territories?

Ms Page—We could attempt that. I do not know how far back our records go or how accurate they would be.

Mr SNOWDON—Presumably, when the department puts up policy to the minister to make changes, these sorts of things are contemplated.

Ms Page—Yes, they are.

Mr SNOWDON—So there should be no difficulty in providing that information.

Ms Page—As I said, I do not know how useful, how detailed or even how comparable our records going back in time would be. We are talking about 14 years of arrangements.

Mr SNOWDON—Yes, but the reform of service delivery is relatively new. For example, could you give us some detail of the savings that have been incurred as a result of market testing?

Ms Page—There are not savings as such. Any savings that are derived from market-testing arrangements are retained in the bucket of funds, if you like, that is returned to the Christmas and Cocos islands—

Mr SNOWDON—Even though there may have been a loss of jobs in the communities as a result of the market testing?

Ms Page—As I said, the funds are retained within that program; they do not return to the budget.

Mr SNOWDON—I am asking you to give us, if you would, an analysis of the overall economic impact of these changes, including on employment.

Ms Page—We will see what we have.

Senator CROSSIN—Has that not been done in the move to market test these services?

Ms Page—I do not think it was done in a comprehensive way. There would be decisions made in relation to the letting of individual contracts, and indeed some of them do provide for the employment of local staff. Whether I could put together a picture over the life of the market-testing arrangements, I am not sure.

Mr SNOWDON—On another matter: in the construction of the detention facility, are you aware of any input your department may have given to the department of finance to ensure employment outcomes for the community of Christmas Island?

Ms Page—No, I am not aware of that. We can take that on notice.

Mr SNOWDON—Could you also let us know whether there were any requests to ensure any tender might include consideration of both employment and training of individuals on Christmas Island?

Ms Page—We can look at that, yes.

Mr SNOWDON—The Cocos (Keeling) Islands Economic Development Association submission says:

The continuance of the CKI and CI as non-self governing territories is no longer a valid option as a form of future governance. It provides no democratic representation, at the equivalent of state level, for the territories' residents. It is essential that an elected form of representation at the equivalent of state level be achieved to provide dynamic leadership and direction for the IOTs.

Could you let us know whether or not you have contemplated supporting a system of internal self-government for the delivery of services in the Indian Ocean territories?

Ms Page—That would be a matter of government policy consideration, and I do not believe the government has contemplated that in recent times.

Mr SNOWDON—Are you aware of what discussion your department may have had with the Indian Ocean territories' communities about the future of governance on both territories?

Ms Page—It would not be appropriate for the department to undertake discussions on the nature of future governance arrangements on either island.

Mr SNOWDON—Presumably you provide the government with feedback about what happens in the Indian Ocean territories and the view of Christmas Island.

Ms Page—Yes, we certainly do. The minister travels as regularly as he is able and also receives advice from the administrator, but it is not a matter for departmental officers to initiate discussions with communities on the future representational arrangements for the island, particularly when there is a prevailing government policy in place. That is a matter for government policy judgment.

Mr SNOWDON—I will come back to those issues of policy in a moment. Returning to the issue of economic development, what is the current status of the spaceport facility proposed on Christmas Island?

Ms Page—That is primarily a matter for the Minister for Industry, Tourism and Resources. We understand that the time limit for the proponent of the space centre to take up assistance offered by the Commonwealth has now expired and the Minister for Industry, Tourism and Resources is examining what options the Commonwealth should now take in respect of that facility.

Mr SNOWDON—In contemplating the economic resources of both the Indian nation territories communities, what planning has the department done of economic development opportunities on both islands?

Ms Page—The Commonwealth has certainly undertaken a policy of major asset upgrade, improvement and maintenance on both islands—and that is continuing—to ensure that the basic infrastructure on both islands is adequate and also at a level to support economic development if required. We are examining with both island communities scope to transfer assets to them, which conceivably could provide opportunities for economic exploitation. We have commissioned a

report into economic development on the IOTs, which has been completed. We are currently assessing that and providing advice to our minister. As I said, we are doing some work with the Cocos on the possibility of a request for tender for a tourism resort in the Cocos Islands. Broadly, that is the scope of our activity.

Mr SNOWDON—Who undertook the research you have just had done of economic development?

Ms Page—It was done by a consultant through the administrator on the island.

Mr SNOWDON—Has that document been made available to the shire councils of Christmas Island or the Cocos Islands?

Ms Page—I think it has. I think there have been discussions with them on drafts of that report.

Mr Beresford-Wylie—Yes, we understand a draft was seen by the shire council to provide some feedback on. As yet, the actual final plan has not been seen by them.

Mr SNOWDON—When is that likely to happen? Is there a process for consultation on that?

Ms Page—It is a matter for the minister. Given that the report was from the administrator to the minister consistent with the administrator's responsibilities for generating opportunities for economic development, it will be a matter for the minister, I think, to release that report.

Mr SNOWDON—That is not my point—

Mr CAUSLEY—On that point, on the transfer of assets in particular, there seemed to be some concern—I think more on Christmas Island than anywhere else—that, in fact, the government's tardiness in the transferring of assets and decisions taken by the government had an effect on property values and in some instances probably destroyed property value of private developers.

Ms Page—I think we would all have liked the process for transferring assets to have been faster than it has been, but they are quite difficult issues for both communities and also for us. Both communities are understandably reluctant to take on assets that may impose costs that they do not have the ability to meet. The negotiation with both communities at the moment is over what an appropriate mix of assets would be to transfer. That has also involved the department undertaking quite a deal of work on historical and life-cycle costs of those assets to reassure the communities.

Mr SNOWDON—What about the ongoing costs of the repair, maintenance and otherwise of those assets once transferred?

Ms Page—They would have to take over those, but what we are endeavouring to do, and certainly what the communities seek, is a parcel of assets that would enable them to generate revenue from some of the assets transferred.

Mr CAUSLEY—Do you accept that it could be the case in some instances that private property values have been destroyed by the decisions taken?

Ms Page—I honestly do not know that.

Mr CAUSLEY—Could you do some assessment and come back with an opinion?

Ms Page—We can take it on notice, but I really do not know how we would be able to establish that.

Mr CAUSLEY—It is a very difficult area in which to set the market—

Ms Page—It is.

Mr CAUSLEY—because we know there is not a very big market there. I understand that.

Mr SNOWDON—I want to go back to the issue of the strategic plan. You are saying now that, because the administrator commissioned the consultancy, it will go to the minister. What happens then?

Ms Page—We are providing advice on that report to the minister. The minister will then work out what he wants to do with it. He could release it, he could announce some changes, some initiatives, or he could provide it to the community for comment. I do not know yet how he will want to handle that.

Mr SNOWDON—Presumably you will provide him with advice on what the process might be. You would think that that advice should include an extensive process of consultation and indeed perhaps negotiation.

Ms Page—That may well be appropriate, depending on the conclusions of the plan.

Mr SNOWDON—Can I say to you that I think it is appropriate, and the very strong view that this committee received on both Indian Ocean territories is that, whilst the relationships with your department have been good—there is no real reflection on DOTARS or their personnel—a process of consultation ought to take place over such matters as strategic plans.

Ms Page—I accept that and I also think that it would be very difficult for anybody to pursue a strategy in relation to economic development without consultation. The issue is simply at what point that takes place.

Mr SNOWDON—Could you tell us if that strategic plan is contemplated and what the future might be for the resort on Christmas Island?

Ms Page—I would prefer not to comment on the contents of the report until the minister has received it.

Mr SNOWDON—Could you tell us what the relationship has been with Softstar, the owner of the Christmas Island Resort, in relation to the water access rights and other matters which the department was seeking for their lease?

Ms Page—We now have access to both Linkwater Road and the water resource which was subject to that lease. I think the proponents of Softstar have ceded that part of the lease to which we were trying to gain access, which is a good result. Work on the road will start shortly, I believe.

Mr SNOWDON—On the proposed development for the spaceport facility: there were a range of moneys which the Commonwealth was going to make available—I think up to \$100 million for the purposes of that project. Could you identify in detail the amount of money which has been made available currently and the projects which were to be funded under that agreement? What will happen to those projects if that agreement does not proceed? I am happy for you to take it on notice.

Ms Page—We do have it—we are just searching for the relevant lease. There are really three broad areas: one is the upgrading of the airport, one is the upgrading of road infrastructure and the third is the upgrading of the port facility. Some work on the upgrading of infrastructure has already taken place to support the IRPC development. The rest of the work is unlikely to take place in the absence of any progression in relation to the space centre.

The Australian government has committed \$68.6 million for three common use infrastructure projects and \$51.3 million for the airport upgrade. The airport upgrade remains conditional upon the APSC's own financial commitment to the project and to obtaining all approvals and licences. I think a small amount of money, \$1.4 million, has been spent in relation to planning for that in the event that that work proceeds. It has committed \$7.3 million for the additional port. That work has been undertaken and is all but complete. It has committed \$10 million for the upgrade of Linkwater Road. Some of the road money has been spent, though a relatively small amount of it I think.

Mr SNOWDON—Thank you for that. Could you explain to us why a mooring buoy has not been put up at the new port facility? There is nowhere to moor.

Ms Page—No, I do not have advice on that, but I am happy to take that on notice.

Mr SNOWDON—Could you perhaps take it on notice and let us know why the Commonwealth has not put a mooring buoy in there? Could you also let us know the extent of the range of work which is to be done to the airport? I understand that one project was to extend the runway.

Mr CAUSLEY—That is at Christmas Island.

Ms Page—Yes.

Mr SNOWDON—You were saying that, if the APSC project does not proceed, the runway will not be extended. Is that what you are telling us?

Ms Page—The airport runway was proposed to enable the use of larger aircraft, Antonov An-124-100 and Boeing 747 aircraft. I would imagine that that would be both lengthening and strengthening, but I do not know that for certain.

Mr SNOWDON—What I am after is a confirmation of what I understand you to be telling us—that is, that this work will not proceed if the APSC project does not proceed.

Ms Page—At this stage that is the position, yes.

Mr SNOWDON—What about the other facilities that might be used for a commercial aircraft coming into the island like full-time fire tenders and other emergency services equipment for the airport?

Ms Page—My understanding is that there is not a full-time fire tender at the moment. I understand the island has an exemption from the requirement to have that.

Mr SNOWDON—Do you think that is wise?

Ms Page—That is a matter for CASA.

Mr SNOWDON—It may be a matter for CASA but it is also a matter for potential users of the airport. I understand that there is interest being expressed, certainly by one operator who is currently operating from Singapore. That was an issue which was raised at the time. Can you let us know what the progress has been on any discussions that may have taken place with SilkAir and any other airline?

Ms Page—SilkAir is operating a once weekly service—

Mr SNOWDON—I understand that.

Ms Page—to Christmas Island at the moment.

Mr SNOWDON—I also understand that they had a concern prior to them commencing this service about safety and other support issues, including capital items that were required at the airport. Submissions were made to the Commonwealth.

Ms Page—The minister is currently considering an application by SilkAir in relation to some capital items at the airport. The issue of the fire tender would have been a regulatory judgment by CASA, and we will seek advice from them.

Mr SNOWDON—That is fine. If you could come back for some of that, I would appreciate it. Thank you.

CHAIRMAN—What do the nine leases that are currently before DOTARS for granting or otherwise cover in a topographical sense? Do they cover pristine, remnant—

Ms Page—The leases are currently not with us. They are with Minister Campbell. I do not know where the leases are, but certainly his assessment will relate to the extent to which there are any environmental issues associated with the extension or the letting of those leases.

CHAIRMAN—And then they will come to your minister.

Ms Page—Yes, then they will come to our minister.

CHAIRMAN—Do you know what the topographical aspects of the leases cover? Do they cover remnant forest?

Ms Page—I do not know where the leases are located.

Senator CROSSIN—It is documented in the EIS.

CHAIRMAN—Would you be kind enough to let the committee have a map of those leases—I know some of us already have them, but you may have some updates on them—and the features on the island which they cover? Has there been any discussion recently with respect to altering the decision by the minister at the time not to grant a licence to reopen the casino?

Ms Page—I do not believe there has been any reconsideration of that.

CHAIRMAN—Wouldn't the opening of a casino on the island alleviate some of the burden with respect to the financial arrangements between Christmas Island and DOTARS or the government generally?

Ms Page—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.

CHAIRMAN—You have nothing by way of evidence—documentation or discussions—that you could give the committee with respect to an update on the casino?

Ms Page—No, I do not believe that we have.

CHAIRMAN—Thank you. I will not pursue that anymore. I was requested some years ago to consider the study of confinement for women on both islands in relation to their being taken to Perth to have their babies. Does that merit some discussion with relevant departments? There are two reasons. Some women prefer to stay with their families on the islands particularly on the Cocos Keeling, and the cost of the whole process is quite alarming and growing now per birth.

Ms Page—I am aware that it is an issue. My understanding is that women have a choice to have children on Christmas Island but it is generally recommended that they use facilities at Perth hospitals. I do not know whether there has been any further discussion on that issue but we could examine that.

CHAIRMAN—What could you tell the committee that would update us on the Asian elephants that are proposed to come to the island?

Ms Page—I do not know whether we have any update on it. I think that they are still anticipated and the handling of the elephants is a matter that AQIS is responsible for. I think that the middle of the year is the anticipated arrival date of the elephants.

CHAIRMAN—The next question is also to do with animals—the feral goats on the island. Can you give the committee any update with respect to the feral goats which were causing a problem?

Ms Page—All I can advise on is our role. We have no role in the housing of the goats, the landing of the goats or the terms on which the goats actually enter the islands. My understanding is that DOTARS was approached in relation to whether we would be prepared to make capacity available on the aircraft, which would otherwise have been available to us for freight, and we agreed that the goat proponent would be able to have access to the part of the aircraft. The issue about the terms of entry of the goats and the conditions under which they are held are matters for AQIS and customs, I believe.

Senator CROSSIN—I take it that you have read the transcripts of our days on Christmas and Cocos islands. On Christmas Island Mr Price in his evidence emphasised the need for more education on and awareness of local government on the options available for governance and in particular the possibility of having any of that translated into the local Malay language. Is any such program under consideration?

Ms Page—No, it is not, for the reasons I have given. There has been a review of current government policy in relation to governance on the Indian Ocean territory. It is not something on which DOTARS would have any authority to provide advice on alternative governance options.

Senator CROSSIN—What is the current policy you are operating under?

Ms Page—The current policy is the policy of normalisation. The Commonwealth provides Commonwealth services. It provides state services but it does it on the basis of delivery which would be comparable in equivalent communities in Western Australia. And the shire councils provide local services. This is predicated on an assumption that the shires would eventually be incorporated into the state of Western Australia.

Senator CROSSIN—That is exactly what my question was about. Has any of that ever been explained to people on, say, Christmas Island, particularly in their Malay language so that they understand exactly where this government is going in relation to the governance of their island?

Ms Page—I cannot comment on whether or not such advice has been provided in the past. I certainly imagine that it has been provided in English, but I cannot comment on whether or not it has been provided in Malay.

Senator CROSSIN—I just find it a bit frustrating that you hide behind the fact that you are new in this position. I am wondering whether you have read any of the background files or briefings. This is the same response that we got during the estimates process, with all due respect. Why wouldn't such an explanation of the government's policy be presented to those people in all languages so that they could understand it?

Ms Page—It is a good suggestion and we will investigate it. What I do not know is whether, over the life of the current policy, such advice has been provided in the past.

Senator CROSSIN—I am not entirely sure that the life of the current policy is in fact all that old. My memory goes back for 10 years and I think it is a quite recent policy decision.

Ms Page—The policy of normalisation has been in place since, I think, the early nineties. The service delivery policy is more recent, I think.

Senator CROSSIN—Also, the long-term aim that there would be an integration into WA is quite recent—that is, within the last five years. Perhaps you could show us or give us some evidence as to how that has been explained to the people in the IOTs.

Ms Page—I do not know how it has been explained, but we can investigate that.

Mr SNOWDON—I have a question in relation to that. What discussions have formally taken place with the Western Australian government, the previous Premier or the current Premier about this policy?

Ms Page—I do not believe that there has been any discussion with the current Premier. There were discussions some years ago, I believe, with the previous Premier and I do not believe that there have been any in recent times.

Mr SNOWDON—Are you aware of what his attitude was?

Ms Page—The Western Australian government at that stage believed that it was premature to consider a transfer of the territories.

Mr SNOWDON—They also believed that it was appropriate that the view of the Christmas and Cocos island communities ought to be sought. Has that happened?

Ms Page—No, it has not, because there has been no further decision to proceed one way or the other. There would have to be two processes in place, as you know. There would need to be consultation with both territories and there would also need to be a referendum in Western Australia.

Mr SNOWDON—I appreciate that, but I would have thought that you would start with base 1, not with base 3—that is, before you get a policy, you actually go and talk to people about it and see if the policy is viable.

Ms Page—The decision on how to move and at what point would ultimately be a government decision. There was obviously some exploration at a fairly preliminary level with the relevant Western Australian government at the time and it was decided that there would be no point in proceeding further.

Mr SNOWDON—So it is still government policy?

Ms Page—It is still government policy.

Mr SNOWDON—Even though it would not proceed then, it may not proceed now and it may not proceed ever.

Ms Page—That is a matter for the government.

Mr SNOWDON—It is not a matter for the government; it is a matter for the government, other governments and the Christmas Island and Indian Ocean territories. Isn't that true? They cannot do it on their own.

Ms Page—They cannot do it on their own—that is correct.

Mr SNOWDON—So it is a fallacious policy?

Ms Page—The three governments would need to agree jointly that change was desirable.

Mr SNOWDON—So what is plan B?

Ms Page—That is a question that you would really have to direct towards the government. We are implementing the current government policy of normalisation, which remains the prevailing government policy.

Mr SNOWDON—No. The prevailing government policy, according to your submission, is incorporation into Western Australia.

Ms Page—Eventual incorporation.

Mr SNOWDON—Are you doing anything about that policy?

Ms Page—We are moving to normalise services, as we have said, by continuing to market test, continuing to pursue delivery—

Mr SNOWDON—I understand that, but that is not what I am talking about. What are you doing to progress the government's policy of incorporation into Western Australia? Normalisation I understand; we introduced it in 1992.

Ms Page—I do not know what more we as a department could do, other than to facilitate the upgrade of services and assets on the islands to a point where such a transfer would be feasible and desirable should the government of the day wish to do it.

Senator CROSSIN—I want to keep going with some of the evidence that was brought out in the transcripts. We have gone through this morning, in some detail, the fact that it was very evident from evidence in the hearings, from people on both Christmas and Cocos islands, that there is more need for consultation to tailor some legislation to accommodate the local community. One example that we saw was the conflict between the Cocos adoption processes and Australian family law. You have looked at that in the transcript no doubt?

Ms Clendinning—It is there.

Ms Page—Yes. That is probably an issue for family law.

Senator CROSSIN—It is one case in point, I thought, that clearly highlighted the lack of consultation and was evidence of the fact that purely applying and adopting laws for the islands does not always work.

Ms Clendinning—That was the first I knew of it, Senator, and I have to explain that I am even younger in the job than Susan—I just started with the department in late January. That did strike me when I was reading the transcripts again, over the weekend, and I have got it on a list to investigate.

Senator CROSSIN—Could you take on notice why there is conflict there and how it came to be that such a conflict exists if, in fact, your consultation processes are adequate. Could I ask about the integration with WA. My understanding is that this would require a vote. It would require agreeing to it federally, in the Western Australian parliament and with a plebiscite of all Western Australian people agreeing to include the IOTs within the boundary. Is that correct?

Ms Page—It is my understanding that increasing the size of a state boundary under the Constitution requires a referendum of all relevant citizens. So, yes, it would require a referendum which included all Western Australian citizens.

Senator CROSSIN—So there has been no planning about such a vote or who would fund such a vote?

Ms Page—The Commonwealth government, as I have indicated, has not made a decision to proceed further at this stage.

Senator CROSSIN—Mr Clunies-Ross stated in his evidence that Cocos was, when under the UK, a declared chapter XI territory under a UN charter. Are you familiar with his evidence to us?

Ms Page—Yes, I am.

Senator CROSSIN—He inferred that that means that they seem to have rights of self-determination. If, in a plebiscite, Cocos voted to integrate with WA, they would have the same full rights and effective representation and participation in all levels of the government. So, clearly, Cocos still does not have this full integration, they believe. Have you had a look at Mr Clunies-Ross's evidence to us on that basis?

Ms Page—I am not sure whether or not the relevant UN determination of which he speaks has relevance to the Cocos islands.

Senator CROSSIN—Did you not look at that? My question to you is: what part, if any, does the UN chapter XI play in how the government is working towards governance of the IOTs?

Ms Page—I am not sure that it is relevant, but we can take that on notice.

Senator CROSSIN—All right. I am just wondering why you did not have a look at that between the hearings on 1 February and our hearing today.

Ms Page—I suspect that that has been tested in the past. I would like to provide you with more detail on that.

Senator CROSSIN—Mr Payne, the President of the Christmas Island Chamber of Commerce, also used that line of argument in hearings with us. If you could have a look at that—

Ms Page—It is an issue that territories raise from time to time.

Senator CROSSIN—Mr Clunies-Ross also said that if the Commonwealth were unable to address the real underlying issues of the full integration process, then renegotiate a close association agreement, this could reflect the requirements of both sides and could indeed be based on the status quo. Is that a possible consideration?

Ms Page—As I have said, the current prevailing government policy is one of normalisation and I really cannot comment on any alternative models because the government has not given consideration to them.

Senator CROSSIN—What is your reaction to Mr Clunies-Ross's statement:

... a number of officials from DOTARS and its numerous predecessors and advisers have verbally claimed powers plenary.
... it means 'powers close to god-like' ...

In fact, we heard at some of the hearings on Christmas Island that a senior bureaucrat had said that DOTARS was in fact the state government. What is your response to those comments?

Ms Page—I would want to know the context of any remarks like that. I do not wish to comment out of context on second- and third-hand accounts of meetings.

Mr SNOWDON—Literally it is true, though. The fact is that, with the way in which the law changed, and the incorporated Western Australian law, the minister is ultimately the minister for everything.

Ms Page—The minister certainly exercises both Commonwealth and state government type powers on the island.

Mr SNOWDON—And to the degree that you have delegations makes you the state government, does it not?

Ms Page—I am interpreting Senator Crossin's remark as being one about an appropriateness of a particular remark, rather than a fact about—

Mr CAUSLEY—Is it true to say that Australian taxpayers inherited the responsibility of the Clunies-Ross family for the workers that they had on the islands?

Ms Page—The Australian government accepts its responsibility for the people of the Indian Ocean territories, yes.

Senator CROSSIN—Isn't it perhaps the fact that the government still seems to view Cocos as a non-self-governed, colonial administrative, unintegrated territory? No matter the context of that statement, is that not how DOTARS sees itself—as in fact the state government for the IOTs?

Ms Page—DOTARS sees itself, I think, as delivering government policy and delivering services in accordance with the powers that have been delegated by the minister. It sees it as a non-self-governing territory, which is its status in constitutional terms, and I suppose I cannot comment beyond that.

Senator CROSSIN—How do you see yourselves in relation to the IOTs? What is the view of the department in relation to its relationship with the IOTs?

Ms Page—We see ourselves as providing services and exercising delegations on behalf of the minister and the government.

Senator CROSSIN—So a conduit rather than a state government.

Ms Page—We certainly see ourselves as a service provider. We are not a state government; we are delivering services or facilitating services which are state government like, but the situation in the IOTs, as I have described, is certainly different. We are carrying out state government like powers, but I am not about to pretend that we are two levels of government in one.

Senator CROSSIN—Quite a number of people made the point that there is high unemployment on the island. I am talking about Cocos island here, in particular. Do any of the contracts on the island—say, for power, water or the airport—contain any clauses that, where reasonably possible, local people should have employment or training preferences?

Ms Page—I do not know whether the contracts contain them. Certainly in relation to negotiation of arrangements for the delivery of Commonwealth services, we attempt to give preference to people who have options to provide for local employment.

Mr SNOWDON—Why wouldn't you make it a condition of the tender documents?

Ms Page—I do not know whether they are conditions of the tender documents.

Senator CROSSIN—Can you find that out for us?

Ms Page—Yes.

Mr SNOWDON—And, if they are not, can you explain to us why they are not?

Senator CROSSIN—We were told by Mr Pirus that it was hard sending young people away to the mainland for study due to lack of financial support. I realise perhaps you are not the best

department to ask this; this is probably more in education's SDA. But do you know what financial assistance is available for parents to send their kids to Perth for education and training?

Ms Page—No, I do not. We fund a training organisation on the island but, in relation to Perth, I do not know, and I would need to take advice on that.

Senator CROSSIN—The training organisation on the island would be group training, which is probably apprentices and post compulsory schooling. Can you take that on notice for me. Are you aware whether or not DIMA or Quarantine might still be interested in retaining some of the quarantine station for an emergency detention centre if a boat turned up? Is that correct?

Ms Page—On Cocos or on Christmas?

Senator CROSSIN—This is all Cocos now. I thought I would contain all my questions to one island!

Ms Page—Sorry. No, my understanding is that AQIS, who are the owners of that facility, are looking to divest themselves of it.

Mr Beresford-Wylie—My understanding is that it is primarily with AQIS at the present time.

Senator CROSSIN—So, as far as you know, there are no plans to retain some of that facility for future use for DIMA purposes?

Ms Page—I do not believe so, no.

Senator CROSSIN—What is the situation with the Rumah Baru project?

Ms Page—The wharf?

Senator CROSSIN—Has it been shelved?

Ms Page—The initial proposal has been shelved because, when they came in, tender costs were higher than the funds available for the upgrade of that facility. Western Stevedores, the Christmas Island port managers, submitted a proposal for an alternative freight-handling facility system for Cocos which, as I understand it, involved barges and a lower-level wharf than was originally proposed. Within the 2005-06 IOT capital investment program, the minister has approved funding of up to \$8.35 million for three projects aimed at meeting the future freight needs of Cocos island. Those projects are set to be designed, tendered and implemented over the next three financial years.

Senator CROSSIN—Can you give us a breakdown of those projects?

Ms Page—I will have to take that on notice, but we can do that.

Senator CROSSIN—Where are we at with accessing the golf course?

Ms Page—Our understanding is that the airport is being fenced, which incidentally implies that the golf course is being fenced. Our understanding is that access will still be provided but there may be a need for escorts or some form of clearance for people to access the airport grounds. In the longer term, I think there is a recognition that the golf course might need to move or be extended to provide freer access.

Senator CROSSIN—Move?

Ms Page—Or be extended in one direction.

Senator CROSSIN—It can only be extended in one direction. If you go the other direction, you will be out in the water.

Ms Page—That is right.

Senator CROSSIN—You still have the situation, though, where some holes are on one side of the airstrip and some on the other. Is there a plan to move the whole golf course out of the fenced area?

Ms Page—Presumably that has always been the case and people have negotiated their way around the strip. I think the issue at the moment is the fencing, which is the issue which has changed access to the golf course, and the security requirements that go with it.

Senator CROSSIN—But technically people will still be able to play golf while this happens?

Ms Page—I understand that technically people should be able to play golf. There may be some requirement for escorted access or a requirement to establish some form of bona fides or identification to get access to the golf course, but it should continue to operate.

Mr SNOWDON—Could you let us know what those requirements are in detail, please?

Ms Page—Yes.

Senator CROSSIN—What plan do you have for the Cocos Club?

Ms Page—The Cocos Club is part of the parcel of assets that we are discussing with the Cocos community at the moment for possible transfer.

Senator CROSSIN—When you say the ‘Cocos community’, do you mean the shire council?

Ms Page—Yes.

Senator CROSSIN—What are you going to do if the shire council does not want the club?

Ms Page—We would not proceed any further.

Senator CROSSIN—Would you look at offering it to any other organisation or association on the island?

Ms Page—We have not thought of that yet. As I said earlier, what we are trying to do is to find a parcel of assets that would be an attractive parcel for the shire council, who would consider that a fair transfer. The club is one of those assets. I think it is probably premature to talk about what else we might do with the club.

Senator CROSSIN—When do you hope those consultations will be finished?

Ms Page—I think we had said in the submission it would be by the end of last year, and that clearly has not happened. It is really a process that we are doing in response to the community. We have no deadline as far as the Commonwealth is concerned.

Senator CROSSIN—In relation to Cocos islands, the government building where the telecentre is has recently had its new rent set, and I understand it was set by consultants in Perth. Who were those consultants?

Ms Page—I think the rent was set in accordance with prevailing Western Australian government policy, and I think there was probably a valuation by the Western Australian government. But we can correct that if necessary.

Mr CAUSLEY—That could be extremely difficult, couldn't it, because there is no mature rent market on the islands?

Ms Page—I am assuming that they have had to make allowances for that.

Senator CROSSIN—That is my very point. I understand that the rents are fairly high and that they were set without consultation with the local community. If the shire is not consulted on such matters, how can they feel that they have any real—

Ms Page—I think the lessees were consulted—that is my advice—but you would not normally consult with somebody who was not a party to the lease.

Mr SNOWDON—If it has the potential to make a material difference to the types of services that are on the island, you might. The telecentre, for example, is worked by volunteers and does not have the sort of cash flow that it would need to pay the rent.

Ms Page—In relation to community organisations, my understanding is that they do not pay any rent—that is, not-for-profit organisations.

Senator CROSSIN—No, I think it is just staffed by volunteers. But the issue is that the rent was set by a Perth consultant based on Perth rates. They are fairly high, and no-one in the community was consulted about them, particularly on Christmas Island. I just highlight this as another example of the kind of governance decisions that are made without due thought as to the impact on the islands.

Ms Page—That may well be the case. 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. It may be, but equally it may not be.

Mr SNOWDON—Hang on. I do not know what experience you have of remote communities, but I have quite a lot, and I can say to you that this sort of proposal would not be contemplated in any remote community that I have worked in.

Ms Page—The Western Australian government also—

Mr SNOWDON—Can I just finish. This is not a matter just for the Western Australian government; this is also a Commonwealth matter. You no longer have an administrator on Christmas Island or any official secretary; you have no presence, do you?

Ms Page—We do have an administration—

Senator CROSSIN—On Cocos.

Mr SNOWDON—So on Cocos you have one person.

Ms Page—Not on Cocos, no.

Mr SNOWDON—You have a housing officer, I think. So you have no-one who can inform you as to what the day-to-day activities on the island might be?

Ms Page—We have two staff on Christmas Island—

Mr SNOWDON—I understand that.

Ms Page—whose job, together with the administrator, is to provide advice on issues affecting both islands. But 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.

Mr SNOWDON—This is about services.

Senator CROSSIN—But these were set by consultants.

Mr SNOWDON—That is right. There are two issues here: first is the nature of the services that are currently being provided on Cocos islands by various organisations including the telecentre and the impact any decision to increase rent might have on their operation; and second is the ability to provide ongoing services to the island community. Is that not a consideration for you?

Ms Page—It is a consideration, but the Commonwealth also 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.

Mr SNOWDON—So what you are saying is that rents have priority over what services might be provided?

Ms Page—No, I have not said that at all. I have said that we use a system for assessing rents which is the equivalent of a Western Australian system in a jurisdiction which is required to establish rents in remote places.

Mr SNOWDON—How are you going to guarantee the operation of services like the telecentre if the rent is increased beyond their means?

Ms Page—If they are increased beyond their means, I think we would examine it.

Mr SNOWDON—Have you had any discussion with them.

Ms Page—No, I am not aware that we have had a discussion.

Mr SNOWDON—So this goes back to the whole process of consultation with the community, does it not?

CHAIRMAN—Have you had any complaints from the people that operate the telecentre?

Ms Page—I am not aware that we have.

Senator CROSSIN—You must have because it has been raised in the *Hansard*, which is why I asked you if you had read the *Hansard*. The CEO of the council raised it as an example of where these sorts of decisions impact on the council or on the shire without consultation. It was a consultant who did this work rather than the WA government or an agency.

Ms Page—Yes, but it could be the WA agency who let the work to a consultant.

Senator CROSSIN—Right. Can you find out exactly who the consultant was?

Ms Page—Yes, we can do that.

Senator CROSSIN—Can you have a look at—it is page 23 of the transcript—who the consultant was, how they operated and on what basis there was no consultation?

Ms Page—We are happy to look at it.

Senator CROSSIN—It has been highlighted to us as another example of the government's decision—or lack of oversight from DOTARS, I think, as Mr Snowdon pointed out—and the flow-on it then has to the delivery of services in that community.

Ms Page—We are happy to look at it.

Senator CROSSIN—Turning to Christmas Island, I have quite a few questions from the transcript. In relation to the cranes, how many claims for compensation have you had since the crane was broken?

Ms Page—I am aware of one potential one.

Senator CROSSIN—Have you done an analysis of why the crane failed and why it broke?

Ms Page—I think some of that is contained within the relevant technical reports.

Mr SNOWDON—There was a maintenance exercise—

Ms Page—A maintenance schedule was provided by the crane owner and, as I understand it, the port authority was contracted or obliged to follow that schedule. Clearly, one of issues we are going to have to examine is how adequate the maintenance schedule was.

Senator CROSSIN—Is that the issue or is the issue about when the crane was last fixed prior to this breakdown in January?

Ms Page—I think that would go to the heart of the issues about the maintenance schedule.

Senator CROSSIN—My understanding—and I think we might have raised this in estimates earlier this year—is that new footings were simply placed on top of the old footings. Has that been established yet?

Ms Page—They were, but my understanding is that was done on the manufacturer's advice.

Senator CROSSIN—Rather than a decision by DOTARS to maintain the crane in that way.

Ms Page—DOTARS would have taken technical advice at the time about the appropriate way to install the crane.

Senator CROSSIN—You might have gathered from reading the *Hansard* that I think there is a different feeling or relationship between you and the islands when it comes to Cocos and Christmas islands. When we were there, we picked up that Christmas Island feels quite differently to Cocos about the normalisation process and where things are going. I got the feeling when I was up there and I know from my visits there that Cocos islands are at least cooperating with DOTARS in the current environment and to some extent are fairly satisfied with what is happening. Would you agree with that assessment?

Ms Page—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.

Senator CROSSIN—Mr Thomson highlighted to us that there have been 28 inquiries and reports over the last 25 years into one or other of our terms of reference. I suppose they feel like it is a merry-go-round coming back to revisit them. What do you do with the results of any inquiries or reports? What action do you take?

Ms Page—They are a matter for governments to respond to. Governments respond to joint standing committee, Senate committee and House of Representatives reports.

Senator CROSSIN—What action flows to your department from that?

Ms Page—To the extent to which governments choose to change or alter policy or implement recommendations from those reports, that then flows through in different activities for government departments.

Senator CROSSIN—Do you ever use any of the reports or inquiries to provide advice to government about changes?

Ms Page—We certainly use some of the very useful research that is provided in reports from time to time when providing advice on various things.

Senator CROSSIN—As far as DOTARS is concerned, can you clearly tell me what status you see the IOTs as having?

Ms Page—The IOTs are non-self-governing territories, and the Commonwealth's responsibility is to provide Commonwealth- and state-level services. The shires of the two organisations provide local government services.

Senator CROSSIN—Do you see them as a colony?

Ms Page—No, I certainly do not see them as a colony.

Senator CROSSIN—I think the matter of governance was made even muddier in the transcript of the hearing in Perth. I was not at the hearing but I read the transcript. Mrs Miller, the project manager for the IOTs from the Office of Federal Affairs in the Western Australian Department of the Premier and Cabinet, tried to explain that the IOTs even fall under the Local Government Act—you would have read that evidence, no doubt—

Ms Page—Yes.

Senator CROSSIN—in that the Local Government Act is a Western Australian act but applied as a Commonwealth law. At the time I think Senator Lightfoot described it as 'a bit ambiguous'. Mrs Miller then went on to say that under section 8G of the Territories Law Reform Act the minister for territories has all jurisdiction, not the WA state minister for local government. She further said that a lot of WA laws are applied to IOTs automatically—we have gone through this before—unless the Commonwealth acts repeal, amend or suspend them. What does DOTARS then do to unravel this for people in the IOTs so that they are not confused about the way in which the system works?

Ms Page—I think that gets back to your question about the nature of advice that is provided. I have undertaken to examine the quality of the advice that is provided.

Senator CROSSIN—Margaret Robinson also explained a rather odd situation on Christmas Island where the Western Australian laws technically apply but in practice often cannot be applied. She estimated that about 50 per cent of the laws were irrelevant simply because Christmas Island does not have a board for this or a board for that. The Western Australian laws refer to boards which exist on the mainland but not on Christmas Island. She is talking about 50 per cent of Western Australian laws—that is a fairly large amount. What does your department do to keep track of laws that are relevant or not relevant, or laws that ought to be reviewed or culled?

Ms Page—As I understand it, there is a review from time to time, because one of the things we do is table an instrument in parliament which updates the relevant application of all laws on the island. I could not say that our examination of local government legislation is systematic or our highest priority, but I will undertake to get back to you on that.

Senator CROSSIN—Who reviews that? When you say that there is a review from time to time, who does that? Is it your legal section or A-G's?

Ms Clendinning—We are in fact developing a program for a review at the moment, and it will involve our legal section. We have just gone through identifying all of the Western Australian legislation, working out which need to be amended. We are updating the delegations particularly.

Senator CROSSIN—What consultation have you had with the Western Australian government about that process?

Ms Clendinning—It is a work in progress. We have not consulted with the Western Australian government. We have done the overview, basically the scoping of the size of the task.

Senator CROSSIN—So you might get to a point where you would need to say to the Western Australian government: 'This law could apply, but you would need to amend it.'

Ms Clendinning—That could be an outcome. It depends on the nature of the laws, of course.

Senator CROSSIN—Is there a plan to consult with the shire councils in this process?

Ms Clendinning—As I said, we have just done a scoping exercise to work out the full nature of the task. I have not read the relevant pages yet.

CHAIRMAN—To put some perspective on this: are there many complaints about the ambiguity relating to the federal or state laws and their application in the jurisdictions?

Ms Clendinning—I am not aware of any, but that does not mean that people have not complained to the council or something.

Mr SNOWDON—If they do not know that the law applies, they probably will not be able to complain.

Senator CROSSIN—Let me give you an example that was raised. There is no Corporations Law on Christmas Island, so a company cannot be registered on Christmas Island. Why is that the case?

Ms Page—Commonwealth Corporations Law applies on the IOTs.

Ms Clendinning—No, it is excluded.

Senator CROSSIN—A number of people in the community have raised with me that, if that law were applicable, it would be quite useful, relevant and practical. Is that also part of the scoping activities?

Ms Clendinning—I am not aware of the detail of that report. I have not had a chance to read it yet.

Senator CROSSIN—It is not a report.

Ms Clendinning—Sorry, the document that has been prepared within the process, but we will certainly take that on notice.

Senator CROSSIN—It highlights one of the reasons why there would need to be consultations on the island. This is a concern that has come from businesses, so you would need to consult not only the shire but also the chamber of commerce, I would have thought, because they are the people who are dealing in a practical situation on a day-to-day basis and would probably know better than anyone what laws would be useful, what laws would not and what laws could be applied and currently are not. Can you take that example on board as well?

Ms Clendinning—Yes, of course.

Mr SNOWDON—Have you read the evidence of Mr Sorensen of Northern Bay Pty Ltd in Western Australia?

Ms Page—We have read the *Hansard*, yes.

Mr SNOWDON—He brought to the attention of the committee that, when the Australian government tendered for housing to support the immigration reception and processing centre, it did so by offering free land to potential developers in competition with existing private landholders in apparent contradiction of a stated policy of competitive neutrality. Why was this done?

Ms Page—That might be an issue for the Department of Finance and Administration, which is managing that project, but we will look at that.

Mr SNOWDON—Mr Causley asked a question previously about policy and impact on land prices. The impact of releasing free land for development on Christmas Island—they are now

talking about Thredbo and other associated developments on Christmas Island—has been a reduction in property values for private land-holders. Would you concede that the release of free land may have had a significant impact on the property market on Christmas Island?

Ms Page—I would like to know more about the circumstances of that situation.

Mr SNOWDON—Will you find out for us?

Ms Page—Yes, but it may not be ours, as I have indicated.

Mr SNOWDON—Could you also give consideration as to whether or not private developers should be compensated for losses sustained through Australian government actions?

Ms Page—We will certainly provide advice on government policy in relation to this.

Mr SNOWDON—Would you be prepared to give an undertaking that, in future, land release for development will be sold at market value and that private land-holders will be able to tender for development contracts on a level playing field?

Ms Page—I cannot give that guarantee, because this is not an area of direct responsibility of DOTARS. It would be a matter for the Department of Finance and Administration.

Mr SNOWDON—Perhaps you could come back to us and let us know why we should not be talking to the Department of Finance and Administration right now. There has to be some arrangement here for you as the primary policy and administrative body for Christmas Island to not be able to respond to questions about property values.

Ms Page—I would need to know the circumstances of that particular situation.

Mr SNOWDON—If you had read the *Hansard* from Western Australia, you would know about it. Are you aware of the case of Mr John Sorensen and Northern Bay Pty Ltd?

Ms Page—Only what is in *Hansard*. We would need to investigate his circumstances better.

Mr SNOWDON—You did not seek to investigate the circumstances once you saw it highlighted in the *Hansard*?

Ms Page—We only received formal advice of our requirement to appear before this committee on Thursday last week, Mr Snowdon, so I have not investigated.

Mr SNOWDON—When did you get the *Hansard*?

Ms Page—I personally got it on Thursday.

Mr SNOWDON—Can you let us know what the department's view of this case is once you have had a good look at it?

Ms Page—We will respond, yes.

Mr SNOWDON—Thank you.

Senator CROSSIN—Can I ask you about the SDA over sport and recreation?

Ms Page—Yes.

Senator CROSSIN—I am still not satisfied with the answers we have been given about this. When we went to Cocos Island we saw quite clearly that that shire had been involved in consultation with the sport and rec SDA quite extensively. There was a marked difference when we got to Christmas Island in that they had received it once it had been signed by the minister. Can you clearly explain to me why there was such a difference in the way in which both islands were treated?

Ms Page—Certainly the Christmas Island one has to do with the nature of the arrangements in relation to the centre as well. A centre had been built there. My understanding is that the SDA is not necessarily an agreement to impose services which would have had an effect on the local community but an agreement which enables the Western Australian government to provide advice to the community on how to approach the Western Australian government for grants, assistance and professional advice in relation to sport and recreation. Now that the agreement has been signed, my understanding is that the relevant Western Australian department has met with the Christmas Island community. The reports have been that that was quite a fruitful meeting.

Senator CROSSIN—Can you take on notice for me when the draft SDA was sent to both Christmas Island and Cocos Island, please?

Ms Page—Yes, I can.

Senator CROSSIN—And can you indicate who was responsible for consulting with each of the islands and the shire councils and when they consulted Christmas Island or Cocos Island.

Ms Page—Yes.

Senator CROSSIN—Have you seen the SDA?

Ms Page—I have not personally, no.

Senator CROSSIN—It is a pity, because I think this goes to the heart of the problem. It would be a great SDA for Cocos Island, but the view on Christmas Island is that it is not relevant for them because one of the outcomes of the SDA is that the WA government would do a scoping study of the sport and recreation needs of the island. It might be fine for Cocos Island, but on Christmas Island you have just completed an \$8 million sport and rec centre that was built on the basis of an analysis of the needs of the people on the island. Christmas Islanders, you will see from the evidence they have provided to us, if you have read it, were quite baffled as to why that clause was in the SDA, given that that work had been done. The rec centre was a result of that. It certainly was not an SDA, they felt, that was broadly applicable across both of the islands. Can

you go back to the WA agency, please, and investigate for me whether or not they had considered the building of the recreation centre and the facilities that that recreation centre offered Christmas Islanders before the SDA was drawn up?

Ms Page—We can investigate that, yes.

Senator CROSSIN—You said earlier that the access for Linkwater Road had been excised from the lease. Is that correct?

Ms Page—Yes.

Senator CROSSIN—Has that been at a cost to the government?

Ms Page—To the Commonwealth?

Senator CROSSIN—Yes.

Ms Page—I do not believe so.

Mr SNOWDON—Except for the upgrade costs of the road.

Ms Page—There will be an upgrading cost, yes.

Senator CROSSIN—I understand that, but I take it that Linkwater Road has been excised from the lease and given back to the Commonwealth. Is that correct?

Ms Page—We now have access to that road, yes.

Senator CROSSIN—Has that been at a cost?

Ms Page—I do not believe so, no.

Ms Clendinning—No cost, just the excision from the lease.

Senator CROSSIN—DOTARS, I understand, have removed their representative from the community consultative committee. Is that correct?

Ms Page—We have removed our representatives from community consultative committees generally, yes.

Senator CROSSIN—Why is that?

Ms Page—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.

Senator CROSSIN—Have you seen the evidence provided to us in these hearings that communities have seen that as a fairly negative move?

Ms Page—I understand that some people have. I am not sure that all people on those committees see it that way.

Senator CROSSIN—I would have thought that the shire president at Christmas Island is a fairly significant representative to make that claim.

Ms Page—Yes, I am aware of the shire president's views.

Senator CROSSIN—There has been no consideration to rethink that position then?

Ms Page—No.

Senator CROSSIN—Despite the evidence given to us by the Christmas Island Shire Council?

Ms Page—It was by the shire president.

Senator CROSSIN—He would speak on behalf of the council, one would assume.

Ms Page—Part of the aim of current policy is to assist the shire councils and the representative bodies on Christmas Island to develop their own capacity and to articulate that. A judgment was made that that could happen better without DOTARS representatives on those committees.

Senator CROSSIN—Despite the fact there has now been evidence to say that people welcomed that presence on the committee?

Ms Page—The shire president did.

Senator CROSSIN—His evidence to us was that he spoke on behalf of the shire council. They had authorised him to do so. Is that a matter that you would take back to you minister for reconsideration?

Ms Page—I think the minister is aware of the shire president's views.

Senator CROSSIN—About DOTARS not being on that committee?

Ms Page—Yes, I believe so. I think that is part of his thinking in developing the alternative consultation arrangements for the shire.

Senator CROSSIN—Can you explain to me why the responsibility for the provision of water and sewerage was taken from the shire council?

Ms Page—It was not, in my understanding. What happened was that the shire council had responsibility for a broader range of services than simply water and sewerage provision, including the maintenance of a range of assets. I think those assets have been excised from their responsibilities. I think they are still responsibility for the delivery of services. Is that correct?

Mr Beresford-Wylie—This is Cocos?

Senator CROSSIN—No, Christmas.

Mr SNOWDON—The power station.

Ms Page—I am sorry; I thought you were talking about Cocos.

Senator CROSSIN—No, Christmas Island. I have finished my questions on Cocos.

Ms Page—I will have to take the Christmas Island question on notice. There was certainly an issue in relation to Cocos, as I have just explained.

Senator CROSSIN—My understanding is that they used to provide water and sewerage but it was taken from them.

Ms Page—Yes.

Senator CROSSIN—Because it was taken from them, there is the loss of several local jobs there. I would like an explanation from you as to why it was taken from the shire.

Ms Page—I think it would have been as part of the general process of market testing.

Mr SNOWDON—You will go back to my earlier questions about this, I hope, and give us a comprehensive analysis of all this.

Ms Page—Yes, I understand your concerns.

Mr SNOWDON—It is our view, certainly Trish's and mine, that the community has suffered as a result of this market testing arrangement; that people have lost their jobs and often people have come in from off island to take their jobs.

Ms Page—I understand your concern and we will address it.

Mr SNOWDON—It does not make a lot of sense, does it.

CHAIRMAN—I thank representatives from the Department of Transport and Regional Services for their attendance here today. If there are any matters on which we might need additional information, the secretariat will write to you. You will be sent a copy of the transcript of your evidence, to which you may make editorial corrections. Before closing, I would like to once again thank the witnesses who appeared before us today and my colleagues the Hon.

Warren Snowdon, Senator Trish Crossin and, in his absence, Mr Ian Causley for their attendance here too.

Senator CROSSIN—Chairman, when are the questions taken on notice today due back?

CHAIRMAN—There are so many questions on notice, but if Ms Page can give an answer she is quite welcome to.

Mr SNOWDON—We have an issue here about the preparation of the report and the final deliberation of this committee, so we need to highlight the urgency of getting these questions responded to within a couple of weeks.

CHAIRMAN—If that is practicable, that would certainly suit the committee, Ms Page.

Ms Page—Within a couple of weeks. That is a tall order but we will do our best.

CHAIRMAN—As soon as practicable—we will leave at that.

Ms Page—We will certainly—

Senator CROSSIN—If we had a hearing on 1 February and you only got to read the transcript last Thursday, I do not think ‘soon as practicable’ is satisfactory. I think that we need to set a time of three weeks—

CHAIRMAN—We cannot.

Senator CROSSIN—Our report writing is based on the answers to these questions.

Ms Page—We are certainly aware of your reporting deadline and we will endeavour to do it. We will certainly feed through what questions we can answer readily first.

CHAIRMAN—I cannot force Ms Page to do anything that is not practical. Thank you for your attendance here today.

Resolved (on motion by **Mr Snowdon**):

That this committee authorises publication of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 11.20 am