



# NORTHERN BAY PTY. LTD.

SUBMISSION 2

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## THE SECRETARY OF THE COMMITTEE

Joint Standing Committee on the National Capital and External Territories

Inquiry into the changing economic environment in the Indian Ocean Territories

Via email: [jscncet@aph.gov.au](mailto:jscncet@aph.gov.au)

19. March 2009

We welcome the Ministers decision ordering an inquiry into the economic environment and barriers to business developments on Christmas Island.

Our company, Northern Bay Pty. Ltd., has been engaged in various developments on Christmas Island since 1988. – The following projects being the main ones:

1. Purchase of vacant ocean front land from the Commonwealth and building of self contained dwellings "Barracuda Bay Chalets"
2. Purchase and redevelopment of the Old Hospital site (now known as "Rocky Point Development" which incorporate The Sunset Resort – Captain's Last Resort – The Bosun Tavern and other)
3. Purchase of vacant crown land (location 448) from the Commonwealth and developed into a 23 lot residential subdivision, now named "Christmas Highland Estate".
4. Currently undertaking development of an ocean front block of vacant land owned by us in the Settlement precinct. – Installation of infrastructure (power, water, deep sewer, road and storm water drainage) completed. Phase two: "Captains' Island Retreat" -building of 6 luxury self contained tourism / short stay dwellings are to commence pending positive outcome of unnecessary delay by



the Planning Department (Planning Officer & Shire of Christmas Island combined the Environmental Officer at Christmas Island Administration).

Under the “Terms of Reference” we will in this our submission mainly focus on d. *The operation of businesses in the region*. Our input will mostly refer to events based on our experiences. In an effort to make a change to the better we will mostly refer to the negative aspects from that experience.

We hereby submit following:

- A. We submit with this our submission a transcript of our submission lodged 2005 with The Joint Standing Committee on the National Capital and External Territories in their inquiry into “*Current and future governance arrangements for the Indian Ocean Territories*” leading to their Report 2006. Submission from Northern Bay Pty. Ltd. (John Sorensen) listed in Report appendix “A” nos. 13 and 17 (supplementary). Series of correspondence relating issues in submission; please refer Appendix “B” 3. (List of exhibits). Appendix “C” list of public hearings and witnesses – Wednesday 22. February 2006 (Northern Bay / John Sorensen).

Findings and recommendations by the Committee following their investigations are printed on pages 46 – 47 and 48 in Report 2006 by the Committee.

Conclusions and recommendations by the Committee are unmistakably clear. Refer recommendation number 3 state “*that the Australian Government compensate Northern Bay Pty. Ltd.*”.

Response by the Australian Government (the Howard government) with regard to Recommendation 3 was “DO NOT SUPPORT”.

The reason we raise this issue now by lodging our earlier submission to the Joint Standing Committee (2005) with this 2009 Joint Standing Committee is:

- *Difficult to comprehend how the accused / guilty party and the judicator can be one and the same. We refer to the fact that the Federal Government by the Joint Standing Committee was found “guilty” of BREACHING their own POLICY OF COMPETITIVE NEUTRALITY and recommended to pay compensation to Northern Bay Pty. Ltd.. That the same guilty party (Federal Government) can then self adjudicate and ‘decide’ to NOT SUPPORT the recommendations. This erodes the cornerstones of an apparent functioning lawful democratic society.*

Our experience from dealings with the previous government has taught us that they could not be trusted.

We believe that the correspondence we have had with public servants / bureaucrats have been an attempt to cover up and confuse by issuing statements to us like “*you have not provided any new information that has not previously been considered in the decisions on your case*”. This and other similar phrases / statements are issued after the 2006 Report by Joint Standing Committee. If

thorough investigations by the Committee before issuing their recommendations is not considered “new information” – what is? Our opinion, statements of that kind shows great disrespect for the Committee and its work.

Since winning Government at the last election our new government has by their way of governing and actions ( by correcting wrong-doings by the previous government towards individuals and institutions) shown clear signs that Australia is now on its way to a fully functional *social democracy* resulting in *justice for all*.

We expect this 2009 Joint Standing Committee to have faith in the work by the Committee in 2005/06 and now recommend to our current Government to honour recommendations by the 2006 Joint Standing Committee and follow their recommendations *“that the Australian Government compensate Northern Bay Pt. Ltd.”* .

#### **B. CAPTAINS’ ISLAND RETREAT DEVELOPMENT**

This current project undertaken by our company has met some difficulties in their dealings with the island authorities (Shire /Administration). – Our development proposal was initially (4 years ago) presented to the Shire of CI at a meeting with the Shire. Participating in the meeting were; the at the time fully qualified professional Manager for Planning Building and Health together with the at the time Shire President, Councillors, CEO and Shire staff. The Shire at the time was a pro development friendly Shire and based our presentation of preliminary sketches, plans, drawings, development guide plan and personal presentation, our application to subdivide lot 1015 Gaze Road was lodged with the West Australian Planning Commission (WAPC) with the full support of the Shire of CI. – Application resulted in WAPC issuing a “conditional approval” to subdivide. This approval was (as normal procedure) issued based on WAPC referring our application for comments from the Shire. It must be assumed that the Shire at that time had their chance to request further conditions to be added– ONCE CONDITIONAL WAPC APPROVAL IS ISSUED, NO FURTHER CONDITIONS CAN BE ADDED.

However, late in the phase of the development the current (unqualified) Planning Officer refused to sign off on conditions fulfilled by the developer and he imposed further conditions for developers to comply with before he would ‘sign off’ to enable the issue of individual titles. This resulted in passing of the deadline (3. February 2009) by which date WAPC required clearances to be signed off by individual authorities.

Our development is now on hold pending an appeal to the WAPC. Appeal relating to a request by the Shire Planning Officer *“that developers seek permission from the Commonwealth to dispose of their storm water onto the foreshore (Commonwealth owned)land”*.

The request by the Shire is unfounded in any form of legislation. Furthermore all other private including the Shire dispose of their stormwater without agreement / permission from the Commonwealth.

We are sorry to bring such a trivial matter to the attention of you, the Senate Committee. However, we see an issue of this character to be part of the reason for you to have an inquiry. An inquiry resulting in removal of barriers to business developments in the region and to address the needs for the future.

We do not request or expect any further investigations into the issue mentioned but should you wish to obtain further from us we are at your disposal with further information / documentation.

Professional people in government positions (local or federal) are essential to the functioning and it must be addressed.

We refer to statement by the Hon Kevin Rudd, Prime Minister of Australia recently where he encouraged *“local governments and authorities to fast track the approval procedures and process in an effort to create jobs and economic activity in Australia”*.

A development (ours) is now ‘on hold’ due to unprofessional conduct by an individual and the local authority (the Shire of Christmas Island). We are informed to expect months of waiting while investigations of submissions and a possible appeal takes its course.

The above mentioned issues relates to our ‘negative’ experiences conducting business on Christmas Island. We could write a book about the ‘positive’ sides to living and working on Christmas Island.

#### **C. SUGGESTIONS TO CHANGE / CREATE A BETTER ENVIRONMENT FOR BUSINESSES**

- 1. Airline and Shipping to Christmas Island (passengers and cargo) is far too expensive. Each new Minister responsible for the Territories in our time (near 20 years) has recognised this and promised to “fix it”. – None have been able to,- WHY?? Our question is “who runs the country – politicians or bureaucrats??” – An investigation into why the cost of air and sea (passenger and cargo) is allowed to be so high in comparison with services to other destinations would be appropriate. – Why not contact low cost airlines (Tiger Air – Jet Star – Air Asia) who fly double the distance for far less than half the price of what National Jet charges to Christmas / Cocos Islands??**
- 2. Christmas Island is such a remote part of Australia that it needs special attention with regards to “direct subsidy” from the Government to get a tourism industry up and running. Not as in the past, a few dollars to help pay the wages of the tourism information centre staff. A big injection of millions of dollars into national /international promotion of this “mini Galapagos Island” is required. Building of tourism infrastructure on the island (access tracks / roads in the rainforest etc.) would lead to development of a self sustained healthy tourism industry employing the island residents. (The subsidy would in a very short period of time ‘come back to the Government’ in saved unemployment benefits paid now.)**

3. **Re-issue of the Casino Gaming Licence (to a suitable owner / operator of the Resort Casino) – is a MUST. – Without it the island faces a lot bigger economical battle to establish a sustainable tourism industry.**
4. **Encouragement and support from the Government to establish a ‘Foreign Student’ industry for the island would be a great financial bonus for the island.**
5. **Establishment of a Marine Research facility on the island to explore the unexplored ocean surrounding Christmas Island including the depths of the Java Trench. This could lead to discoveries of resources which would benefit not only the island but the whole nation.**

**I personally thank you for presenting me and others on the islands (Cocos and Christmas) to submit our suggestions and ideas for you to investigate further and make recommendations to our Government.**

**Hopeful and quietly confident that this “new” government will take notice of recommendations by this Committee, I would be pleased to accept an invitation to appear as a witness for the Committee.**

**Regards**

**John Sorensen**

**Northern Bay Pty. Ltd.**

**This document and attachments via Email.**

To: Committee Secretary  
Joint Standing Committee on National Capital and External Territories  
Department of House of Representatives  
Parliament House, Canberra

Via email: [jscncet@aph.gov.au](mailto:jscncet@aph.gov.au)

Attention: All Committee Senators

REF.: Inquiry into current and future governance arrangements for the Indian Ocean Territories.

11.11.2005

BY: John Sorensen, Northern Bay Pty. Ltd.

Dear Senators,

#### SUBMISSION

I thank you for the opportunity to lodge this submission late due to the postponement of the hearing to be held.

My personal and business involvement with Christmas Island goes back to 1988 when I was invited by the then Administrator, Mr Don Taylor, to visit the Island with the prospect of finding new ideas and ventures with economical benefit for the island following the end of the British Phosphate era when many residents had and were leaving the island.

I commissioned a report to the Administrator utilizing 10 of the government owned vacant/empty houses in the Settlement precinct. – The proposal was to refurbish the old buildings so they could be used for the purposes of accommodation for 1. paying scientists and teams recruited from universities around the world to come and study the unique flora, fauna and oceanic conditions on – and off the island. Their research should be shared with Australian universities and research institutions. – 2. to promote, using same properties for what later became known as “Eco-tourism”. My report was well received by the Administrator and he suggested we negotiate a 90 year lease of the selected properties from the Commonwealth.

At the time, before lease negotiations commenced, a political decision was made where the “vacant” houses should be offered to the people who had occupied them. – My proposal was ‘put on hold’ and later – off.

Following a few further visits to the island, we purchased from the Commonwealth, in 1993 vacant block of land in Settlement and constructed three houses – known as “Barracuda Bay Chalets”.

We purchased in 1998 the Old Hospital site which we redeveloped. Now known as the “Rocky Point Development”. – The redeveloped properties were sold off, keeping the Old Morgue which we redeveloped into “Captain’s Last Resort”. – We still own a vacant block ocean front land next to the Rocky Point Development. This block is approved for subdivision into six lots, zoned tourism. Plans are in place for this development, awaiting a turn-around in the economical outlook for the island.

With this background information in combination with informing you that we have lived permanently on the island for six years, our exposure to various events where the Commonwealth Government by policy, and more importantly by change of policy or actions without/outside policy have affected ours (and most other) business operations on the island.

Major events: Closure of the Resort Casino (1998) – The proposed development project APSC on-and-off. – The refugee crisis culminating with the Tampa incident. - - The cancellation of gambling licence to the Resort Casino 2005. – Construction of Detention & Refugee Centre.

All events have affected families and businesses on the island directly and indirectly.

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A development company having a “track” record on Christmas Island over many years: We purchased from the Commonwealth Government Location 448 Phosphate Hill Road with the intend to develop and subdivide this parcel of land into a fully serviced estate “Christmas Highland Estate”. Our intended market was ofcourse to cater for the by Christmas Island Administration’s predicted and announced need for an “eminent population increase expected in relation to both the proposal for a new detention centre and the proposed APSC Space Port Project.”

We lodged 5<sup>th</sup> September 2002 a submission with The Joint Standing Committee with reference to “proposed transfer of Crown land/property by the Commonwealth”. This submission was lodged trusting the Joint Standing Committee as a process sure to bring democratic and moral justice to the affairs already taking place on the island together with putting a hold/stop to the proposed “transfer of Commonwealth land” in direct competition with private investors/developers and land owners in general.

When we purchased Location 448 from the Commonwealth we did so on the understanding that we were entering a “fair” and just property market on Christmas Island.

We were advised by Christmas Island Administration that land will not be made available to any individual or organisation under any circumstances other than those accessible to all interested parties (i.e. Public Auction/Tender). – Quote – “there will be no special deals”. – Christmas Island Administration has indeed gone beyond this

promise in stating – “no land will be released on Christmas Island for any purpose for which such land is already available from the private sector”.

The Hon Wilson Tuckey MP, then Minister for Regional Services Territories and Local Government conducted a public forum at the Christmas Island Club on the 12<sup>th</sup> of March 2002. – He advised (in relation to the major developments taking place on Christmas Island); the positive benefits said to impact on the local industry, businesses and the broader community. We applauded his resolve and looked forward to fruition

Following the announcement of construction of an Immigration Reception and Processing Centre on Christmas Island, a Briefing Specification for “Design, Document and Construction of new Housing associated with the Centre” was issued by GHD (project managers) under instruction from and on behalf of the Commonwealth (DOTARS).

A pre Tender meeting was held 28. March 02 by invitation from the Administrator Mr. Bill Taylor to take place at the administrators conference room.

The aim of the meeting was to enable CI business people to voice their comments and concerns via a tele. hook-up with GHD and DOTARS representatives situated in Perth.

At this meeting we voiced our grave concern to the government’s proposed Tender in which document it was suggested that tendering parties should have the choice to design and construct Housing on either privately owned fully developed land for which they naturally would have to pay “market value” – or alternatively they could choose to construct on FREE COMMONWEALTH LAND.

We were told by the Administrator that our concerns were presented at the “wrong” forum. Our reply: “no other forum has been offered” – the Administrator replied: “ I will take your concerns to the attention of the Minister”. – We followed this ‘promise’ up in writing to Administration (an attention of the Minister). We never had a reply.

We were being asked to compete with an organisation which was now not only providing unfair competition within its own initiatives – but which had previously given its undertaking to provide “a fair market for the private sector on Christmas Island”.

We offered our fully serviced building lots in the newly created “Christmas Highland Estate” to the Commonwealth to utilise, or purchase, for the up-coming Housing Project. – Our offer was rejected by the Commonwealth but the viability of using our land for the project was acknowledged by the Commonwealth.

Rejection to purchase our land was based on the comment “The Commonwealth does not purchase land from private developers/land owners”.

This statement later proved to be either “not policy” – or “break of policy”.

It is with the full consent by Mr. Paul Ferguson, the owner of a block of land situated in Drumsite, CI, that we quote the event that took place.

Mr. Ferguson’s land was “accidentally” listed in the Tender Documentation as Crown Land.

The land was selected by a construction firm lodging a tender for the Housing Project. This tender was successful and construction started on the land without the knowledge of the owner (who did not live on CI). – The owner immediately, when he found out, demanded an explanation from the authorities. – Commonwealth offered to purchase



the land and according to Mr. Ferguson this transaction was agreed and concluded via telephone conversation between Paul Ferguson and the then Minister the Hon Wilson Tuckey.

The deal was settled to full satisfaction of Mr. Ferguson via the Christmas Island Administration.

Encouraged by Mr. Jarl Andersson, Official Secretary at CI Administration (with his advice that our fully serviced land would be an attractive proposition / alternative in the context of the Commonwealth Tender Documentation) – and with no other option, we watched as the tender was issued to tendering parties in the hope that our understanding / fears of the Commonwealth's process / Documentation was misplaced.

In conjunction with holding out for tendering parties to approach us with the prospect to utilising our land in contrast to the Commonwealths (our direct competitor) we lodged our own "Two part Tender". – This was also on advice from Mr. Jarl Andersson as being beneficial to our overall chances of being a successful competitor. Our Tender was for combined housing (two- and three bedroom houses) indicated by Jarl Andersson to be the most obvious choice and most likely choice for the Commonwealth to accept.

Our Tender was unsuccessful and rejected. – The selected winning Tenderers were by a "well connected" Perth based company (Consolidated Construction) – combined a couple of smaller builders who, like Consolidated Construction, choose to build on FREE COMMONWEALTH LAND.

The private sector property market on Christmas Island not only lost out to it's competitor (The Commonwealth Government) in the Tender process but it is to this day negatively effected by the actions of the Commonwealth as potential investors view the Island being susceptible to "EXTRAORDINARY" COMMONWEALTH PROCESS.

Christmas Island is now flooded with a vacant excess of residential accommodation build on FREE Commonwealth land. – It is very important to remember that this all occurred subsequent to the Commonwealth announcing that it would be selling off it's remaining property interests on Christmas Island over a series of auctions with a view to "fertilising" the private sector property market by way of offering secure lease arrangements to private investors for the purpose of catering for it's on-island housing needs.

We based the purchase and development of our subdivision "Christmas Highland Estate" on government strategy and are now facing eminent failure as a commercial venture as a result of contradictory government action.

It goes without saying that residential land on Christmas Island is not a commodity which can be relocated to an area where government policy has not destroyed the market.

Six lots in the estate sold swiftly leading up to the Tender – Since none have sold. Listed prices in the estate were sat based on cost calculations and in consultation with the Real Estate company contracted by the Commonwealth to represent their interests on the island.

Valuer General conducted (2005) re-valuation of the properties in “Christmas Highland Estate” based on our “Objection” to earlier valuation on which land tax is levied.

Statement by Valuer General combined our extensive marketing and advertising campaign nation wide and overseas confirms the true situation – the land is now unsaleable due to Commonwealth actions:

#### QUOTE OF VALUERS STATEMENT

##### REASON FOR DECISION

The Unimproved Values of the subject properties have been reduced to reflect the change in circumstances. It is acknowledged that the property market on Christmas Island has declined since the completion of a significant construction project (employee accommodation) undertaken by the Commonwealth Government, relating to the proposed new detention centre.

End of quote.

Policy of the Australian Government, which we trusted also should apply for Christmas Island has not been adhered to.

We quote:

“THE OBJECTIVES OF THE AUSTRALIAN GOVERNMENT’S POLICY OF COMPETITIVE NEUTRALITY (CN) ARE:

**\*THAT SIGNIFICANT AUSTRALIAN GOVERNMENT BUSINESS ACTIVITIES DO NOT ENJOY NET COMPETITIVE ADVANTAGES OVER THEIR PRIVATE SECTOR COMPETITORS (OR POTENTIAL COMPETITORS) SIMPLY BY VERTUE OF THEIR PUBLIC SECTOR OWNERSHIP.**

**\*TO ENCOURAGE FAIR AND EFFECTIVE COMPETITION IN THE SUPPLY OF GOODS AND SERVICES.**

The Commonwealth is the majority land owner on Christmas island. – They promoted the sale of Commonwealth land to be developed by private developers to cater for the need of the Commonwealth and general demand by others.

Apart from the facts presented in this submission relating to the purchase and development of location 448 there are other issues where the Commonwealth Government has exercised their powers unreasonably and unethically towards our company:

1. Refusing to refund a deposit to our company, payed at purchase of property. Refunds were issued to other parties on the island under similar circumstances.
2. Refusing to reimburse the costs and expense relocating undisclosed Commonwealth infrastructure situated on land purchased. – Infrastructure was relocated by the Commonwealth on other properties at no expense to the purchasers. (including on one property purchased by our company).

Unable to put forward “proposals for reform of governance arrangements” it is our hope that you, the senators with all your powers, will examine details in this our submission and direct the responsible Ministers and bureaucrats to make sure justice and democratic procedure and process will secure a satisfactory financial outcome for our company and individuals effected.

Our opinion, the Commonwealth has acted irresponsibly and should endeavour to “right a wrong” by sincerely considering our suggestions / offer put forward (as a minimum) to:

1. outright purchase the remaining / unsold, fully serviced 17 lots (able to cater for 40 houses) to cater for their future and present needs and requirement in public housing.
2. enter into an agreement for us to design and construct housing in the Christmas Highland Estate catering for the need and requirement of the Government.

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## PROPOSALS FOR GOVERNANCE ARRANGEMENTS

I suggest for the Australian Government to put in place legislation enabling this unique, remote part of Australia (Christmas/Cocos Islands) to equally benefit and share in the enormous wealth of the nation. – The “new” powers of the Senate favouring the elected Government’s political ambitions (following the last election) should in a responsible way be used to implement new laws and regulations in consideration of minority groups and remote communities like the Christmas/Cocos Territories. – Not as a ‘colony’ – but as part of the nation.

Christmas Island is more than “Phosphate”. – It’s unique nature, flora and fauna combined the surrounding ocean represent a huge potential in “Tourism”. To utilise this potential (due to the Island’s remote location) the Government will have to arrange for some kind of subsidy (like it has done to the Island phosphate industry in the form of “royalty relief” etc) - to help tourism develop into a self reliant industry.

## AIR FARE STRUCTURE

The current fare structure, as I understand it, is set by the Commonwealth – with a ‘capped’ subsidy to the operator (National Jet) if their operational turnover/costs falls below a certain level.

The Government, giving concessions for various air lines to operate various “lucrative” routes to and from mainland destinations, should legislate, as a condition for these air lines to operate these “lucrative” routes – that they must also service remote areas at a set (low) fare.

As an example: Singapore Air Line keen to get in on the Sydney – Los Angeles route, also flies daily Singapore – Perth return. – Fares Singapore/Perth return are around one third of the fares that residents and visitors now pay to NJ for the Perth – CI/Cocos route (flying just over half the distance). – For Singapore – Perth and visa versa bound flights to “touch-down” on Christmas Island (say three times a week)

with guaranteed capacity to cater for the Island's (incl Cocos') need, at a set low fare, would open up enormous tourism potential from mainland Australia and the world beyond Singapore.

Alternatively, a direct Government subsidy to lower the present high fare, would save the Government in present welfare payments as the Islands would become a 'full employment' economy where residents were taking advantage of the booming tourism industry. – The, to be expected, large influx of passengers to the Islands would eventually eliminate the need for a subsidy. – However, a kick-start is needed.

#### RESORT – CASINO

The Government's discriminatory decision not to issue a gambling licence to the owners / operators of the Christmas Island Resort / Casino should be overturned. – The 'excuse' stated as reason not to issue licence "gambling's no good for the CI community" - is pathetic.

Even on CI, as anywhere else in Australia, a gambler finds a way to 'have a bet'. The decision not to issue a licence would only benefit "BIG" players (Casino operators) in Perth and elsewhere.

To re-open the CI Casino would not even have to be a "risky" experiment. – History has proven the economical viability and benefit for the Island (350 employment opportunities and a 1% community fund) plus the associated opportunities for other businesses on the Island.

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I hereby request for this my submission to be made public, and I would welcome the opportunity to appear as a witness.

Yours sincerely

John Sorensen  
Director  
Northern Bay Pty. Ltd.