

Submission from R J Grant

“Winds of Change”

This submission is done on behalf of:

The Youth of Cocos – Who face a sense of loss

The Elders of Cocos – Who face a sense of isolation

The Departed from Cocos – Who face a sense of despair

in the hope that this Committee’s Report will assist in turning loss into hope, isolation into reunion , and despair into joy.

The Members
Joint Standing Committee on the National Capital and External Territories
Parliament House
Canberra ACT

Reference: “Inquiry into the changing economic environment in the Indian Ocean Territories”

As noted on the cover sheet I have prepared this submission on behalf of

The Youth of Cocos – ‘Who face a sense of loss, and a struggle for identity’
The Elders of Cocos – ‘Who face a sense of isolation and loss of family’,
The Departed from Cocos – ‘Who face a sense of despair, and a search for a sense of place’.

The sense of loss, isolation and despair, can be minimized, through sustainable economic development, proactive local government, regional cooperation with Christmas Island, a visionary private sector and partnership with the Australian Government. But there has to be changes, thus the title “Winds of Change”.

Due to my own unique circumstances I believe I can bring to bear expertise and experience when commenting upon economic development for the Cocos (Keeling) Islands. I have lived and worked continuously in the Cocos (Keeling) Islands since 1986, and live with my Cocos Malay wife, and our children, on Home Island, the traditional home of the Cocos Malay population.

From my resume it can be seen that I have served 10 years as an elected member of the Cocos (Keeling) Islands Shire Council, including 8 years as the shire president, which included a continuous 6 ½ years period as the Shire President until October 2007, when I did not stand for re-election. I have also served a period of 5 years as the president of the Cocos (Keeling) Islands Economic Development Association until October 2007. In addition I have served 8 years as the Chair of the Islamic Council of the Cocos (Keeling) Islands. My resume will show that I possess extensive professional and academic qualifications and expertise in business in Southeast Asia.

I am a firm believer in that the economic future of the Cocos (Keeling) Islands and Christmas Island lies with Southeast Asia. Both territories are strategically located to Southeast Asia and it is necessary to construct the appropriate bridges, based upon niche sustainable businesses, to develop markets in this region which will contribute to improving the standard of living and the level of services for the communities of Australia’s Indian Ocean Territories.

This Submission is divided into three sections:

The Problem

The Solution

The issues

The most important section relates to issues. This provides a focus in a number of specific areas and relates to actual events and identifies visions, opportunities, obstacles, and threats to the development of sustainable economic projects in the Cocos (Keeling) Islands. I make no apology for the size of the document, for it is only by having this depth of information that members of the Committee can really sort the wheat from the chaff, as I am sure submissions from the various levels of government will portray very different views. I have found in the past that submissions from the various level of governments have tended to be very broad 'brush strokes', and provide very little of the reality of what happens at the 'coal face'.

I firmly believe that sustainable niche economic development will contribute to improving the standard of living and level of services for the community of Cocos, and as such will impact upon those areas that form the terms of reference for the Inquiry. Sustainable economic development will improve:

Transport services and costs including passenger and freight transport

Communication services such as broadband internet, digital television and mobile telephony;

Cost and availability of housing;

Commonwealth Government services and programs

In relation to the impacts of climate change I have addressed these issues comprehensively in the document. "Survival of Paradise" which I prepared in December 2006.

The Committee is in the fortunate position of reviewing documents, and hearing evidence, which may be incorporated into a report to Parliament, which highlights issues and make recommendations, which in other circumstances, would not see the light of day. As positive proof of this I point to the important contributions of previous Committee's reports:

Delivering the Goods (The Rumah Baru project flowed from this report)

Inquiry into current and future governance arrangements for the Indian Ocean Territories (Provided an opportunity for the community to address this issue)

Island to Islands: Communications with Australia's external territories (EFTPOS and Internet issues flowed from this report)

Ron Grant
Cocos (Keeling) Islands
June 30, 2009.

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Abbreviations

AGD	Attorney General's Department
AIOTA	Australian Indian Ocean Territories Airline
AIOTILS	Australian Indian Ocean Territories Integrated Logistics System
CEO	Chief Executive Officer of the Council
Christmas	Christmas Island
Cocos	Cocos (Keeling) Islands
Cooperative Council	Cocos Islands Cooperative Society Ltd Cocos (Keeling) Islands Shire Council
EDO	Economic Development Officer of the AGD based on Christmas Island
IOTPF	Indian Ocean Territories Policy Forum
Q Station	Former Australian Government Quarantine Station on West Island, Cocos (Keeling) Islands
SBDC	Small Business Development Corporation of Western Australia
SDA	Service Delivery Agreement between the Australian Government and the Western Australian Government
Silverfox	Silverfox Corporation Pty Ltd

1 The Problem

1.1 The Australian - January 3, 2009 – “Paradise that May be Lost” by Dominic Dunne

The problem was clearly stated in the above article from The Australian:

“The consensus on the islands, among both Malays and Europeans, is that 60-70 per cent of the Malays are on welfare. A document produced in late 2007 by the Commonwealth Grants Commission, which reports on the finances of Australia's external territories, shows that fewer than 30 per cent of islanders over the age of 15 had full-time employment”,

Dominic Dunne in his article of January 3, 2009 stated: “shows that fewer than 30 per cent of islanders over the age of 15 had full-time employment” flowed from evidence which was given by the Council's CEO (Simms) at the public hearings held on Cocos in August 2007 by the Commonwealth Grants Commission.

Dunne went on to state:

“Costs are sure to increase. In its report, the Commonwealth Grants Commission warns that "service requirements and service delivery costs could change markedly in future years", and that there is an "increasingly urgent need" to consider the social and economic future of the territories”.

1.2 View from the Coal face

To place a more human face on the problem, I have identified three issues below: youth – a sense of identity; elders – a sense of isolation and emigration – sense of despair.

1.2.1 The Youth – A sense of loss

My wife's family have a pondok (Cocos Malay term for a small building) on Pulu Siput, a small island at the southern end of the southern atoll, which is used for overnight camping.

In 1999 a group of 16 Cocos Malay students from years 3/4 and 5/6 camped at Pulu Siput and wrote their names on the side of the pondok, proclaiming their sense of identity with Cocos. What has happened to these 16 children subsequently?

6 returned to Cocos (3 previous female students have married, the other 3 are still unmarried), but all are unemployed. 10 remained on the Australian mainland (working or studying)

Of these students of 1999, a 100% unemployment rate in relation to Cocos and this does not take into account the students that have followed them.

2 The Problem

All remote communities, and in fact other non-remote communities, do suffer loss of youths from their communities, **but in the case of Cocos, this should not have to happen to this extent for such students, and most definitely it should not happen to future students. Why should their sense of identity be subsequently shattered?**

Dunne in his article of January 3, 2009 stated:

“Home Island is arguably one of the world's most idyllic Muslim communities, a town of mosques, neat houses and paved streets, nestled in a postcard-perfect setting of coconut palms, white beaches and turquoise water”.

The majority of the youth do not want to leave Cocos, as described by Dunne above, but are forced to because of socio-economic reasons.

1.2.2 The Elders – A sense of isolation

In the block of 8 houses where my wife's parents live on Home Island the following information is relevant:

House #	Comments	Children
<u>49</u>	2 occupants (pensioners)	Nil
<u>50</u>	2 occupants mainland, one graduated from university, the other studying at university	Both children on the mainland
<u>51</u>	2 occupants mainland, qualified as an electrician	One child living on the mainland
<u>52</u>	2 occupants (pensioners)	One child living on Cocos
<u>73</u>	2 occupants (pensioners) mainland, and both university graduates	Two children, both living on the mainland
<u>74</u>	2 occupants (pensioners) and one on the mainland	Two children, one living on Cocos, and one on the mainland
<u>75</u>	Multi-generational household	
<u>76</u>	2 occupants (pensioners)	One child working on the mainland

All but one house have aging occupants, and of the 9 children, only 2 have remained on Cocos. Of the 7 children who have remained on the mainland 3 are university graduates (all working), 1 is studying at university, and 1 is an

1 The Problem

electrician (working) and 2 are working. The skills they possess could all be used on Cocos if employment opportunities were available. The elders are becoming increasingly isolated.

1.2.3 The Departed – A sense of Despair

In approximately the last 24 months seven Cocos Malay families have left Cocos permanently, a total of 14 adults, and 17 children. The total number of houses on Home Island is approximately 99

To put this emigration into perspective, for such a small economy as Cocos, the following is provided by way of examples:

Each family would spend a minimum of \$10,000 per year on consumables, a total of \$70,000 per year, which represents approximately 70% of one month's sale of the mini market on Home Island. The loss of revenue can only lead to increased prices or reduced services.

\$70,000 is the equivalent of two full time employment positions

Each family would travel at least once every two years to the mainland on the scheduled air service, so the revenue of 31 return tickets is lost. Children if studying on the mainland, year 11 onwards, are provided 4 return airfares per year for secondary students and 3 return airfares for tertiary students. The loss of families impact upon the revenue earned by the airline, and may impact upon the degree of subsidy provided to the airline by the Australian Government.

There also comes a tipping point when loss of students impacts upon the ratio of teachers to students. The loss of teaching staff and their families places more pressure on the small Cocos economy.

The loss of population can also become a tipping point when the loss of population impacts upon the ratio of health staff to population.

Because of the small population, and small economic base, adverse impacts can be observed quite quickly in relation to the standard of living and level of services.

1.3 Comments

The majority of the above can be eliminated through economic development, and this economic development does not have to be large scale, it has merely to be sustainable. Failure to address this issue of sustainable economic development on a timely basis, will have a range of negative impacts beyond those identified above. 'Broad brush' statements on economic development by all levels of government are not needed, what is needed are positive strategies which deliver employment, and this is not happening.

1 The Problem

Dominic Dunne in his article of January 3, 2009 stated:

“Some Cocos Malays go so far as to say they are getting a raw deal from Australia. A week spent on the islands revealed dissatisfaction with their end of the bargain, a common view being that Australia has a poor understanding of their needs and that it makes rules without proper consultation. “Sometimes we don't feel like part of Australia. Sometimes we feel they don't do anything for us. We feel forgotten,” says one Malay resident”.

Dominic Dunne in his article of January 3, 2009 stated:

“The mere whiff of self-government would send a chill up the spine of some government officers on the islands who, while they say they respect and like the local Malays, do not believe the community is in a position to govern itself”.

Dominic Dunne in his article of January 3, 2009 stated:

“Discontent could fester if left unattended, hard as that may be for mainland Australians to believe. Money is not everything, including welfare money”.

This submission will provide the reality which supports the above comments, a reality which is not addressed by the various level of governments, and represents a fundamental failure of these levels of government to the community they are supposed to serve.

The generation of employment, which improves the standard of living and the levels of services, for a community, is the prime motive for economic development, and this is just not happening on Cocos, and the Cocos community, especially the Cocos Malay community, are bearing the brunt of the failures for the lack of economic development.

2 The Solution

2.1 The Cocos (Keeling) Islands

Cocos is a non-self governing territory of the Commonwealth of Australia located in the Indian Ocean, 2,700 kilometres from Perth, Western Australia, and 1,300 kilometres from Jakarta.

Location of the Cocos (Keeling) Islands

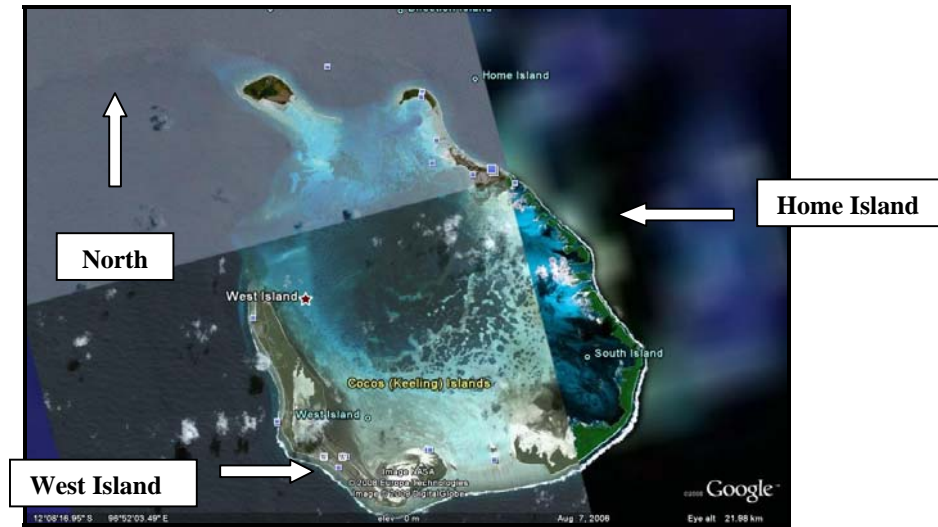


The Cocos (Keeling) Islands consist of a group of twenty-seven coral islands with an approximate land area of fourteen square kilometers. By contrast the lagoon has a surface area of 190 square kilometers, which may be divided into two distinct zones, a deep zone (8-12 meters) in the northern portion, and a large shallow southern region (0.3 meter).

The permanent population of approximately 600 persons, of which 450 are Cocos Malays (Home Island) and the balance being non Cocos Malay (West Island) The economy of the Cocos (Keeling) Islands is currently primarily dependent upon the activities of the Australian Government. There are a number of small scale tourism operations, but these are restricted as the only air service is the twice weekly flights from Perth, Western Australia.

2 The Solution

The Cocos (Keeling) Islands



2.2 The Concept

To the immediate north of the Cocos (Keeling) Islands, approximately 2 hours flying time, is Southeast Asia, one of the most populous (570+ million) and dynamic regions in the world. Regional forecasts suggest that economic growth will continue, after the current economic downturn of 2009.

Through major international airports located at Jakarta (Soekarno-Hatta International Airport), Singapore (Singapore Changi Airport), and Kuala Lumpur (Kuala Lumpur International Airport) a network of international, regional and local air routes radiate out. Garuda International's Route Map, below, illustrates this

Garuda Airline Network



2 The Solution

The region has an enormous concentration of international, regional and domestic airline services. These services also connect it with another populous and dynamic market, North Asia.

2.3 Key factors

Promotion of the close proximity of the Cocos (Keeling) Islands, and Christmas Island, to Southeast Asia for services (tourism) and products (marine resources).

Focus upon the Jakarta international air hub as the point of entry to the Cocos (Keeling) Islands. The Jakarta international air hub can be accessed from the international airports of Malaysian and Singapore. Christmas Island has focused upon Singapore as the applicable air hub.

Jakarta international airport is well connected by air services to Perth, Western Australia. It is easier to shift passengers from Perth, Western Australia to Jakarta on long haul aircraft, operated by competitive airlines, with maximum passenger comfort, and at a low cost.

Air service from Jakarta to the Cocos (Keeling) Islands with an aircraft of suitable passenger and freight capacity.

Flight Times from Cocos (Keeling) Islands

Figure 2.2

Distance of the Cocos (Keeling) Islands from Key Locations

Destination	Distance (Kilometers)	Flight time (Airbus A319)
Jakarta to the Cocos (Keeling) Islands	1,268	90 minutes
Jakarta to Christmas Island	497	36 minutes
Christmas Island to the Cocos (Keeling) Islands	974	70 minutes
Jakarta to Singapore	894	65 minutes
Jakarta to Kuala Lumpur	1,168	85 minutes

2 The Solution

Sustainable development that is compatible with the environment (natural, society and culture) and infrastructure of Cocos

Shipping service that incorporates shipping from Fremantle, Western Australia to Jakarta, and transshipment to Cocos and Christmas.

2.4 Outcomes

The Australian Indian Ocean Territories in general, and the Cocos (Keeling) Islands, specifically, can have exciting and rewarding sustainable economic development, which will improve the standard of living and the level of services for their respective communities.

2.5 The Key Players

No matter how visionary a developer is, and there has been no lack of such for Cocos, and what resources that developer can commit to a project, the Australian Government (i.e. the AGD) and the Cocos (Keeling) Islands Shire Council must deliver expertise and experience, and be proactive in supporting economic development, and understand what it is for a business to commit time, resources and finance to economic development projects. This lack of understanding is a common theme in relation to proposed economic development projects for Cocos.

The AGD's key role relates to the provision of infrastructure and the service delivery agreements ('SDAs') with Western Australian Government departments (e.g. The Department of Fisheries).

The Council fills the normal local government role, but through two land trusts in holds 6/7ths of the land in trust for the benefit, advancement, and well being of the Cocos Malays. The key to any significant development lies with the Council through the control of the land.

The Cocos (Keeling) Islands Shire Council

In October 2007 I did not re nominate for the Council elections. For the previous 8 ½ years I had been a councilor, and for a period of 6 ½ years, until October 2007, had been the shire president.

At this point in time in relation to the Council there was

Strong sense of direction – provided by Vision 2010

Strong integration with WA Government departments which had SDAs – provided by Island 2010

Regional cooperation with the Christmas Island Shire Council through the Indian Ocean Territories Policy Forum

2. The Solution

Level of Government meetings – between the AGD and the Council annually in Canberra (November/December)

Strong economic development direction – provided by Island Builders

A body of elected members that were not divided and worked well for the community

A strong working relationship with the CEO (including weekly meetings between the CEO and myself as the president)

No significant division between the West and Home Island communities.

By February 2009 I observed the following in relation to the Council:

Vision 2010, which would end in 2010, had not been replaced by an updated Vision

Regional cooperation with the Christmas Island Shire Council had ceased

No elected members of members had travelled to Canberra for several years. By contrast the Christmas Island Shire Council does send elected members to Canberra on a regular basis, and their Shire President was there in March 2009, representing the community interests in relation to airline issues

The elected members had become divided over an extension to the CEO (Simms) employment contract

A compromise was reached by the elected members only to extend the CEO's (Simms) employment contract by one year, effectively passing the issue to the new council members who will be elected in October 2009. At this time the CEO's (Simms) employment contract will only have 5 months left.

A very divided West Island and Home Island communities.

Economic projects that would have delivered employment, lease income for Council, and attracted investment, stalled, or lost, due to incredible time delays, and obvious lack of expertise, the understanding of time as a critical factor for businesses, and lack of pro activeness.

The focus of Council becoming more micro and less macro

2. The Solution

The loss of the future opportunity to reduce Council's dependence upon the financial assistance grant from the AGD by increasing the rate base from economic development, and the generation of lease income from land trust land which could be used for community projects such as housing.

Economic development was focused only on one industry, tourism, and no other economic development sectors.

The lack of pro activeness in supporting economic projects. This is partly due to the fact that the AGD is the major source of funding to the Council, so an organizational structure is required to administer the AGD funding, whether there is economic development or not.

The solution includes solving each of the above issues, if sustainable economic development is going to occur. Key factors in the provision of solutions for the above issues will include the results of the October 2009 Council elections, and the appointment of a new CEO in early 2010.

The AGD

There are two critical Relating to the AGD:

Service Delivery Agreements (SDAs) with Western Australian Government Departments

Oversight of the Cocos (Keeling) Islands Shire Council

In relation to the SDAs the issues that have been identified in the Marine Resources section of this submission, and Nyall Ledger's separate submission on Beche de Mer, highlight these problems. Until these problems are addressed there will be no significant sustainable marine economic development for the Cocos (Keeling) Islands.

The issue of the oversight of the Cocos (Keeling) Islands Shire Council is an important issue. I am not referring to oversight that relates to the Local Government Act 1995 (WA)(CKI). I am referring to a more fundamental issue.

The Council is funded by the AGD on the same basis as the WA Government funds WA local government authorities. A Financial Assistance Grant ('FAG') is provided, based upon well established WA Local Government Grants Commission Guidelines.

For Council (as per Council budgets) the rate income was \$286,795 (2008/2009) and \$238,185 (2007.2008). The FAG were (as per Council budgets) \$1,415,000 (2008/2009) and \$1,238,700 (2007/2008). In the case of Cocos the FAG grant actually increased at the same time as rates increased.

2. The Solution

By contrast, as per the Council's 2008/2009, revenue from the land trust land (representing 6/7ths of the land on Cocos) and structures on that land, was \$489,770, which included \$260,000 from house rents on Home Island. Therefore, excluding house rents, 6/7ths of the land on Cocos generated revenue of \$229.770 per annum.

	Schedule	\$
<u>Revenue</u>		
Kampong house rental	9	260000
Kampong house insurance reimbursement	9	40000
Kampong lease income	9	2500
pension and concessions	9	1000
Business Centre rental	13	9900
Community Resource Centre	13	24600
Lease Lot 245	14	10000
Lease Cooperative	14	31000
Lease Fuel Depot	14	32000
Lease Commonwealth	14	43500
Lease Tycraft	14	1680
Lease RAAF	14	26900
Lease Kelapa Gading	14	4100
Lease Lot 104	14	1200
Lease Emma washer	14	1390
Total		489770

I personally believe that the AGD needs to have a far greater oversight of the Council's operations to ensure revenue is generated from land under Council's control meets more acceptable levels of return. Unless there is a carrot and stick approach, the Council will continue to depend upon FAG grants to meet the majority of operating expenses, and this can lead to an over reliance on government funding, and not an aggressive and pro active approach to economic development, where greater benefits are generated for the entire community, and not just portion of it. A return of \$229,770 from 6/7ths of the land on Cocos is totally unacceptable, particularly when there are developers willing to invest in a range of projects, and the community need to break its dependence upon welfare payments.

3 The Issues

3.1 Introduction

3.1.1 Potential Investment in Economic Development projects

The below is a table of economic development projects that are/have been proposed for the Cocos (Keeling) Islands.

Description	Investment	Employment Numbers	Lease to Council (Max annual)	Rates payable To Council
Pulu Cocos Resort	15000000	28	190157	Yes
Trannies Beach Resort	10000000	20	125000	Yes
OnRoad OffRoad - Development through Diversity			45580	Yes
Pulu Cocos Plantations	2274000	10		
Pulu Cocos Mengkudu	420000	4		
Hydrofood Cocos	260000	2		
Pulu Cocos Pearls	900000	4		
Pulu Cocos Nursery Logistics	900000	4 2		
Coconut Timber project	255000	3	5000	Yes
Beche de mer project				
Crystal crabs project				
Clams project				
Total	30009000	77	365737	

The above projects represents **minimum investments of approximately \$30 million, the creation of 77 jobs, and potential annual lease income to the Council (maximum annual lease) of \$365,737.** These numbers do not include the three marine resources projects, beche de mer, crystal crabs and clams.

3 The Issues

3.1.2 The Key Facilitators for Economic Development

To translate these potential projects to actual outcomes requires a combination of visionary developers, with the resources, a pro active Council, **(the Council controls 6/7ths of the land through two land trusts on Cocos)**, and the AGD **(delivering infrastructure and resources management through service delivery agreements (SDAs) that the AGD has with Western Australian Government departments)**.

The key facilitators therefore being the Council and the AGD. The facilitators who can make or break economic development, and who ultimately decide the standard of living and level of services for the community through their decisions.

The ultimate facilitator for any sustainable development in the Cocos (Keeling) Islands is the Council, not in the traditional role of local government (.e. that of regulating through planning applications, building licenses, and health regulations), **but as the owner of 6/7ths of the land held under two land trusts for the benefit, advancement and well being of the Cocos Malays.**

3.1.3 Success or Failure of the Facilitators

The success or failure of the Facilitators, the Council or the AGD, can be quantified very precisely by obtaining answers to the following four questions, based upon the extensive preparatory economic development work undertaken for the projects on the table on the previous page:

How much new actual, or potential, economic development investment been attracted to Cocos in the last 18 months?

How many new actual, or potential, employment positions have been created in the last 18 months?

How much new additional actual, or potential, lease income has the Council earned from land covered by the two land trusts in the last 18 months?

How many new actual, or potential, small business opportunities have been created in the last 18 months from new investments?

The answers to these four simple questions will confirm whether the Council and the AGD are successful facilitators, or have failed as facilitators, in relation to economic development for Cocos, and the community of Cocos.

3 The Issues

3.1.4 Issues

To provide the Committee with practical and real life examples 14 issues have been selected, these being:

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

Issue # 2: Trannies Beach Resort Project

Issue # 3: Coconut Timber Project

Issue # 4: Small Business Development Corporation

Issue # 5: Australian Indian Ocean Territories Regional Cooperation

Issue # 6: Cocos (Keeling) Islands Shire Council - Community Services Manager's Position

Issue # 7: Community Consultation

Issue # 8: Home Island Satellite TV

Issue # 9: Land Trust Future

Issue # 10: Cost of Living

Issue # 11: Marine Resources Projects

Issue # 12: Economic Development Officer, AGD Christmas Island

Issue # 13: Air Services

Issue # 14: Quarantine Station

The above issues will provide the Committee with the reality of Cocos, and not the 'broad brush' views which are provided by the various levels of government. This is the real situation that the community has to contend with.

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

Brief

1.1 Introduction

I have provided by way of example, my family's corporation, Silverfox Corporation Pty Ltd, experience of its Pulu Cocos Resort project with the Council. This shows the real issues that a developer faces, and not the broad brush strokes that are made by the Federal and local governments in addressing economic development. I have intentionally made this section quite detailed so that Committee members can see the reality of economic development on Cocos, in particular in relation to the Council.

To the immediate north of Cocos, approximately 2 hours flying time, is Southeast Asia, one of the most populous (570+ million people) and dynamic regions in the world. Regional forecasts suggest that economic growth will continue, after the current economic downturn. Prior to the current economic downturn Indonesia's GDP growth was projected to achieve 5.6% annually, while Malaysia GDP growth was projected to reach 6% annually. By contrast Australia's GDP had been projected to grow at only 2.75% annually.

In 2010, Indonesian (population 245+ million people) average income per capita was predicted to reach over \$3,000. If this prediction is correct, there will be more than 45 million people who can be called middle class. In Malaysia (population 24+ million people), 46% of the population is classified as middle, or upper, class, economically. In Indonesia 86.1% of the population is Muslim, and in Malaysia approximately 60.4 percent of the population is Muslim.

Through major international airports located at Jakarta (Soekarno-Hatta International Airport), Singapore (Singapore Changi Airport), and Kuala Lumpur (Kuala Lumpur International Airport) a network of international, regional and local air routes radiate out. Garuda International's Route Map, below, illustrates this



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Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

1.2 Concept

The region has an enormous concentration of international, regional and domestic airline services. These services also connect it with another populous and dynamic market, North Asia.

The vision of the Silverfox Corporation Pty Ltd, owned by Ron Grant and his wife Marias Blacket (a Cocos Malay), is to develop the geographically close Muslim tourism market of Southeast Asia for the predominately Muslim Cocos, through the development of the halal Pulu Cocos Resort.

To achieve the vision Silverfox's strategy for the Pulu Cocos Resort incorporates:

Promotion of the close proximity of Cocos to Southeast Asia.

Focus upon the Jakarta international air hub as the point of entry for Cocos. The Jakarta international air hub can also be accessed from the international airports of Malaysian and Singapore.

Air service from Jakarta to Cocos with an aircraft of suitable passenger capacity.

Promotion of the Pulu Cocos Resort as a halal resort for its products and services, with access to unique marine, terrestrial and cultural environments.

Focus on the age group between 35 and 55 years, especially families.

Focus upon the Indonesian Muslim market for the peak period, and to develop the off peak periods through the introduction of the Indian Ocean Malay Festival, and the Island Forum, which will be held on alternative years.

Location of the Pulu Cocos Resort West Island, Cocos (Keeling) Islands



Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project



1.3 Design

The Pulu Cocos Resort a 3 star resort, will be located on West Island, and will be constructed on an area of 6 hectares of a former coconut plantation, on land leased from the Cocos (Keeling) Islands Shire Council. It will consist of 19 Plantation units (two self contained standard suites), 4 Kris units (luxury suites), Restoran Pulu (Island Restaurant), and Rumah Selamat Datang (Reception/ Management). A generic prefabricated design will be used for all buildings for ease of construction, shipment and construction. Such a design will also minimize waste. Green building strategies will be incorporated and a Green Star rating from the Green Building Council of Australia will be applied for.

1.4 Key Data

Statement of Financial Position

	Year 1	Year 2	Year 3	Year 4	Year 5
<u>Share Capital and Reserves</u>					
Share Capital	15000000	15000000	15000000	15000000	15000000
Profit retained	918691	1392185	19602198	3055691	4284630
Total Share Capital and Reserves	<u>15918681</u>	<u>16392185</u>	<u>16960198</u>	<u>18055691</u>	<u>19284630</u>
Fixed Assets (Net)	13061667	12373334	11685001	10996668	10308335
Current Assets	3389930	5489681	6831904	8889919	10924174
Current Liabilities	(532916)	(147083)0	(1556707)	(1830896)	(1947879)
Net Assets	<u>15918681</u>	<u>16392185</u>	<u>16960198</u>	<u>18055691</u>	<u>19284630</u>

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

Employment

Employment Positions	Year 1	Year 2	Year 3	Year 4	Year 5
Total Full Time Positions	24	27	27	27	28

Statement of Financial Performance

	Year 1 \$	Year 2 \$	Year 3 \$	Year 4 \$	Year 5 \$
Revenue	4913522	5897832	6306549	7542098	8134801
Expenses	3601122	4149804	4423675	4905679	5307746
Profit/(Loss) before tax	1312400	1748028	1882874	2636418	2827055
Taxation	393720	524484	564862	790925	848120
Profit after tax	918680	1223544	1218012	1845493	1978935
Dividend	0	750000	750000	750000	750000
Retained profit	918680	483544	468012	1095493	1228935
Return on investment	8.75%	11.65%	12.55%	17.58%	18.85%
Projected 10% return on investment	1500000	1500000	1500000	1500000	1500000

Lease Income Payable to Council

	Year 1	Year 2	Year 3	Year 4	Year 5
Lease	98616	130365	148905	180674	190157

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

1.5 Key Documentation

The progress for the Pulu Cocos Resort project has been long and frustrating, as can be seen from the following list of key documents:

<u>Document Description</u>	<u>Date</u>
Expression of interest (Council)	April 1997
Heads of Agreement (Council)	August 1997
Social Impact Study (Council)	December 1997
Notice of Intent (Environment Australia)	May 1998
Draft Environmental Management Plan (EA)	June 1999
Flora Study (Environment Australia)	November 2001
Final Environmental Management Plan (EA)	April 2002
Development Plan (Council)	June 2002
Department of Land Administration (Council)	September 2002
Environmental approval (EA)	April/August 2002
Public Information Document (Council)	March 2004
Public comment period on lease (Council)	May 2004
State Planning Commission (Council)	January 2005
Agreement to Lease (Council)	November 2005
Lease (Council)	November 2005

1.6 Planning Approval Date

Under the Agreement to Lease, between the Council and Silverfox, Clause 2.1 (5) local government planning approval was required to be obtained by June 30, 2007.

In June 2007 Silverfox wrote to the CEO (Simms) of the Council stating that planning approval could not be obtained by that date, due a number of issues:

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

- a) Environmental approval from Environment Australia included a condition that the Australian Government formally approve the new Rumah Baru passenger and freight facility. This was only done in May 2007, by the Minister Jim Lloyd, Minister for Local Government, Territories and Roads. This project had implications for the construction of the Pulu Cocos Resort.
- b) Water supply and sewage issues. It was only in April 2007 that a workshop, entitled “Cocos (Keeling) Islands Water Source Development Plan – Value Management Study”, was held in Perth, Western Australia. The CEO (Simms) and AGD representatives attended this workshop. Prior to any formal planning application being submitted by Silverfox to the Council the actual water and sewage infrastructure to be provided by the AGD, as the supplier of state type services needed to be known, as the whole site water and sewage infrastructure for the Pulu Cocos Resort was dependent upon the AGD infrastructure.

In the June 2007 letter to the Council, Silverfox attached a draft planning application, but made it quite clear within its letter this was not a formal planning application because of the AGD infrastructure issues. Throughout the document the term draft was used,

On July 2, 2007, Ron Grant, as a director of Silverfox, met with the CEO (Simms) to discuss Silverfox’s June 2007 letter. It was quite clear at this time, from the contents of the June 2007 letter from Silverfox, and from this discussion of July 2, 2007, that planning approval could not be obtained by June 30, 2007.

Point 2.1 (5) of the Agreement to Lease states:

“If the Planning Approval is refused or if the Planning Approval is not obtained by the Date of Planning Approval, then either party (in the case of the Lessee, provided it has complied with its obligations under this agreement) may at any time after that date terminate this Agreement”.

The important word here is **may**.

Point 2.1 (4) of the Agreement to Lease states:

“ The Lessee shall use its best endeavours to obtain the Planning Approval by the Date for Planning Approval”.

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

It was agreed by the CEO (Simms) that Silverfox would provide a report every two months to the Council as to progress. Silverfox provided reports in August 2007, October 2007 and December 2007. These reports were acknowledged as being received by the CEO (Simms). On December 1, 2007 the CEO (Simms) wrote to Silverfox outlining information that would be required for an outline development plan, a formal planning application and building licenses.

Silverfox wrote to the CEO (Simms) on December 24, 2007, informing him that Ron Grant would be in Perth for a 4 week period commencing January 22, 2008 for meetings with a range of contractors in relation to the Pulu Cocos Resort. Upon Ron Grant's return to Cocos he submitted a detailed report to Simms (dated February 28, 2008) which detailed meetings that were held with 19 corporations/ individuals in relation to the Pulu Cocos Resort project. The letter of February 28, 2008, also informed the CEO (Simms) that Ron Grant would be returning to Perth for 2 weeks, commencing April 11, 2008, for additional meetings.

The letter of February 28, 2008, and the attached detailed reports were emailed to the CEO (Simms) on February 28, 2008.

1.7 Termination of Lease Agreement

Council's meeting of February 27, 2008

You can imagine my surprise when by return email, shortly after I had sent my email of February 28, 2008, that the CEO (Simms) sent a letter stating at the Council meeting of February 27, 2008 (the night before I sent my email of February 28, 2008), based upon his recommendation, as planning approval had not been granted by the appropriate date under the Agreement to Lease, and the Lease Agreement, between the Council and Silverfox was terminated, and that Silverfox was invited to enter into discussions to renegotiate the Agreement to Lease and the Lease Agreement.

On February 29, 2008, I spoke to the majority of the councilors on this issue and the following information emerged:

- a) Council members received their agenda for the Council meeting normally the Monday before the Wednesday Council meeting
- b) Their February 2008 agendas had a private and confidential item from the CEO (Simms) included, but no description was given as to the nature of the private and confidential item
- c) It was only at the meeting of February 27, 2008 when the private and confidential item was to be discussed that the CEO (Simms) handed out

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

sealed envelopes with his report and recommendation to terminate the lease with the Pulu Cocos Resort.

- d) As three of the councilors had only been elected the previous October, and had no knowledge of the details of the Pulu Cocos Resort project, and other councilors were surprised at the CEO (Simms) recommendation discussion took place, but the CEO (Simms) insisted that a decision had to be made that night

R Grant's Comments

- a) I have in relation to Silverfox's Pulu Cocos Resort project with 4 CEOs. Chris Jackson, Bob Jarvis, Bill Price and Mick Simms.
- b) In relation to the CEOs, Jackson, Jarvis and Price at all times there has been an open, transparent and accountable discussion. Prior to any recommendation being made by them to Council they always had prior discussions with myself as a director of Silverfox.
- c) Items previously that related Silverfox's Pulu Cocos Resort that were included in the Council's agenda papers were recorded in an open, transparent and accountable manner, not once was an item classified as private and confidential. Examples of this were:

Agenda Month	CEO	Description of Item
January 2002	Bob Jarvis	Proceeding with lease agreement
July 2003	Bob Jarvis	Approval of Lease for Silverfox Corporation Pty Ltd. This report contained a detailed report on the Agreement to Lease and Lease Agreement including financial information
September 2003	Bob Jarvis	Draft lease to be advertised
May 2005 lease	Bill Price	CPI factor for bond required under the lease
February 2006 for execution date	Bill Price	Agreement to lease – Extension of time

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

Many of the above agenda items contained detailed financial and operational information, but in the interest of open, transparent and accountable local government it was not classified as private and confidential.

Agendas for the above Council meetings were also made available to the public libraries prior to the Council meetings so members of the public could be aware of issues on the Council agenda and could, if so wished, permit people to attend the public question time at the Council meetings.

- d) At no time prior to the CEO (Simms) making his recommendation to Council did he attempt to contact myself as a director of Silverfox to discuss the issue. There was no opportunity for Silverfox to propose alternatives, of which there were a number.
- e) At no time did the CEO (Simms) advise myself as a director of Silverfox that the termination of the lease was to be on the agenda for the Council meeting of February 27, 2008, so that I could attend public question time, and present Silverfox's position.
- f) The basis of the termination was a legal issue, not obtaining planning approval by a required date, and the resolution of the Council included a clause inviting Silverfox to enter into negotiations to renegotiate the lease. Both of these issues did not warrant a private and confidential status, nor to be handled with the degree of secrecy by the CEO (Simms)
- g) The CEO's (Simms) normal manner in communicating detailed items is by correspondence which is mailed to Silverfox (e.g. CEO's (Simms) letter of December 1, 2007 dealing with outline development plans, planning applications and building licenses). He does not discuss issues face to face.
- h) If I had not emailed the detailed Pulu Cocos Resort report of February 28, 2008 (a Thursday), and received by return email from the CEO (Simms) which had attached to it his letter of February 27, 2008, advising of the termination of the lease, the earliest a could have received his letter would have been on the following Saturday when the post office was open.

It was therefore interesting to note, that just hours later on the same Thursday, at the Community Information Forum (previously known as the Officers in Charge meeting), which may be regarded as a public meeting, held in a public place (i.e. the Cocos Beach Motel restaurant), it was announced that the lease with Silverfox for the Pulu Cocos Resort with the Council had been terminated. I have seen the actual minutes of this meeting, and there is only reference to termination, and no reference to an invitation to enter into renegotiations. The Council's representative at this Forum is the CEO (Simms). If I had received the CEO's (Simms) letter of

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

February 27, 2008 through the normal mail channels, members of the public would have been aware of the lease termination before myself.

- i) As the date of planning approval was to be obtained by June 30, 2007, I am surprised that the CEO (Simms) only saw fit to recommend termination the lease on February 27, 2008 (8 months after the date of planning approval) and when he knew full well I was in Perth for 4 weeks of negotiations with contractors.
- j) The CEO (Simms) made no attempt to examine alternative solutions beside termination. Point 2.1 (5) of the Agreement to Lease states:

“If the Planning Approval is refused or if the Planning Approval is not obtained by the Date of Planning Approval, then either party (in the case of the Lessee, provided it has complied with its obligations under this agreement) may at any time after that date terminate this Agreement”.

The important word here is **may**. I believe with good will and intention this issue could have been resolved in a more satisfactory manner.

Also the CEO (Simms) did not pay any attention to Point 2.1 (4) of the Agreement to Lease which states:

“The Lessee shall use its best endeavours to obtain the Planning Approval by the Date for Planning Approval”.

- k) In discussions with elected members following on the February 27, 2008 Council meeting, they stated that the CEO (Simms) when pressed by elected members how long it would take to renegotiate the Silverfox lease, he stated that it could be relatively quickly. They were extremely surprised when I stated that this was not the case, as with the termination of the lease, a new lease would have to be entered into, and this would mean again:

Department of Land Administration to obtain a GRV certificate

Re advertising the lease for public comment

Preparing a Development Plan for public comment

Public comment period on lease

State Planning Commission approval as the lease was in excess of 10 years where required the above actions would be required to be placed before Council as agenda items.

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

New Agreement to Lease and Lease Agreement could only be entered into after all of the above had been completed.

- l) In correspondence dated March 5, 2008, the CEO (Simms) refers to the planning application submitted by Silverfox did not meet the requirements of the Council's town Planning scheme.

In the June 2007 letter to the Council Silverfox attached a draft planning application, but made it quite clear within its letter this was not a formal planning application because of the AGD infrastructure issues. Throughout the document the term draft was used. It is therefore hard to see how the CEO (Simms) could state that it was a formal application.

1.8 Subsequent Events

1.8.1 Silverfox's letter of February 28, 2009 and Related Issues

In Silverfox's letter of February 28, 2008, I informed the CEO (Simms) that I would be returning to Perth on April 11, 2008, for 2 weeks of further discussions with contractors for the Pulu Cocos Resort project.

The CEO (Simms) in his letter of March 5, 2008, to Silverfox stated:

“:As the Lease for Pt Lot 100 West Island has been terminated by the Council, Silverfox Corporation Pty Ltd, its agents, or anyone acting on their behalf shall not carry out any work, deposit any material, or remove any material from the subject property,,”.

This statement is completely at odds with position of Thomson Constructions application for a lease of Lot 24, West Island for a concrete batching plant.

This is a recommendation made by the CEO (Simms) at the Council meeting of February 25, 2009.

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

RECOMMENDATIONS:	
1.	<i>That under the provisions of the Shire of Cocos (Keeling) Islands Town Planning Scheme No.1 Council exercise its discretion by granting planning approval for the establishment of a concrete batching plant on Part Lot 24 West Island.</i>
2.	<i>That Council invites Thomson Constructions to enter into an agreement to lease Part Lot 24 West Island for a period of 5 years with an option to negotiate a lease for a further 5 years at the expiry of the initial period.</i>
3.	<i>That the annual rental for the lease of Part Lot 24 West Island is \$12,740 and is to be reviewed annually.</i>
4.	<i>That this approval is subject environmental considerations and approval by other statutory authorities (WaterCorp)</i>
5.	<i>That the applicant meets all costs associated with providing services to the subject property.</i>

On March 5, 2009, I and my family were on West Island to assist with the food night for fund raising for a new mosque on Home Island. The next morning (March 6, 2009) while out for a walk with my wife, who works for WaterCorp, we came across Lot 24 which had a concrete batching plant partially established, and with bags of aggregate (Council's aggregate) delivered on site. My wife, a Water Corp, employee with responsibility for Finance and Business Support was rather amazed, as WaterCorp had not given any approvals at that date, and I would be fairly certain no lease had been finalized, as lease agreements are required to go before a Council meeting, the next being in March 2009.

So two entirely different approaches by the CEO (Simms).

Following Silverfox's presentation of the Pulu Cocos Resort project to Council on March 26, 2008, the CEO (Simms) wrote to Silverfox on March 31, 2008, and the following is an extract from that letter:

"During the presentation to Council it was indicated that you intended to travel to the mainland in the near future to negotiate infrastructure for a proposed tourist facility on Cocos. You are advised that any development is subject to Council approval through the process of lease negotiation and the planning approval process. The development agreed to by the Council in the former Agreement for Lease may not necessarily be agreed in any future development. You are therefore further advised to ensure that the Agreement for Lease and Planning Approval has been established before proceeding further with this matter".

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

To be able to renegotiate the lease Silverfox need the information that would have come out of the meeting in April 2008.

It was very obvious, based upon the circumstances that led up to the CEO's (Simms) letter of February 27, 2008, and the attitude being projected by the CEO (Simms) in his letters of March 5, 2008 and March 31, 2008, that there was to be no pro active support from the CEO (Simms) for the Silverfox's Pulu Cocos Resort project.

1.8.2 Silverfox's letter of March 23, 2009 and Related Issues

However, worse was to come. On the following pages is my letter of March 23, 2009 to the CEO (Simms), to this date I have received no acknowledgement of receipt, nor have any of the issues been addressed.

Silverfox Corporation Pty Ltd

PO Box 89
Home Island
Cocos (Keeling) Islands
Indian Ocean. 6799
Via
Perth Mail Exchange
Perth
Western Australia
Australia

Telephone
International 61 891 62 6532
Australia 08 91 62 6532

Email: iscorp@kampong.cc

March 23, 2009

The Cocos (Keeling) Islands Shire Council
Home Island
Cocos (Keeling) Islands
Indian Ocean. 6799

Attention:

M Simms
Chief Executive Officer

Dear Mick,

Reference: Pulu Cocos Resort - Lease

1 Council's Resolutions

1.1 Council meeting of February 27, 2008

In your letter of February 28, 2008 you stated the following clause in relation to the Council's resolution of February 27, 2008, that applied to the lease between the Council and the Silverfox Corporation Pty Ltd for the proposed Pulu Cocos Resort:

"That Council invites Silverfox Corporation Pty Ltd to enter into discussions with Council to renegotiate the Lease of Pt Lot100 West Island for the development of a tourist resort on the site"

It was also stated in relation to this resolution of Council:

" The resolution of the Council with regards to this matter was unanimous".

1.2 Council meeting of March 26, 2008

This was followed by the following statement from your letter of March 31, 2008:

“ I refer to your presentation to Council 26 March 2008 regarding the background of the proposed Pulu Cocos Tourist Resort. The matter was discussed by Council during general business, with Council confirming its former resolution regarding this matter”.

Once again the elected members unanimously confirmed the intention of the clause relating to renegotiating the lease.

1.3 Elected members' position

There can therefore be no misunderstanding that the elected members of the Council unanimously supported inviting Silverfox Corporation Pty Ltd to enter into discussions with Council to renegotiate the Lease of Pt Lot100 West Island for the development of a tourist resort on the site.

2 Meetings Requested by Silverfox Corporation Pty Ltd with the CEO of the Council

2.1 Silverfox Corporation Pty Ltd's correspondence requesting a meeting as to renegotiations of lease

Silverfox Corporation Pty Ltd has written to you, in your position as the CEO of the Council, indicating that Silverfox Corporation Pty Ltd, wished to enter into discussions to renegotiate the lease on:

March 3, 2008
March 6, 2008
April 2, 2008
April 8, 2008
May 7, 2008
June 19, 2008.

At the Cocos (Keeling) Islands Shire Council meeting of March 26, 2008 Silverfox Corporation Pty Ltd made a presentation on the Pulu Cocos Resort project to the elected members and yourself and confirmed it wanted to renegotiate the lease.

In your letter of March 31, 2008 you stated:

“I refer to your presentation to Council 26 March 2008 regarding the background of the proposed Pulu Cocos Resort. The matter was discussed by Council during general business, with Council confirming its

former resolution regarding this matter. You are now advised that should Silverfox Corporation Pty Ltd wish to enter into negotiation to lease land from the Shire, **it will be required a formal application to be submitted to Council for their consideration**".

Although the Silverfox Corporation Pty Ltd had in its letters of March 3, 2008 and March 6, 2008, made it very clear that it wished to comply with the Council's invitation to enter into renegotiations for the lease, it confirmed in its letter of April 8, 2008 that the Silverfox Corporation Pty Ltd formally wishes to advised the Council, in writing, that in accordance with your letter of March 31, 2008, that it wished to enter into renegotiations as to the lease for the Pulu Cocos Resort site.

2.2 Meeting of July 15, 2008

It was not until July 15, 2008, that the first meeting to renegotiate the lease was to occur between a Council committee, consisting of yourself as the CEO, Councilor Charlston and Councilor Minkom, and the Silverfox Corporation Pty Ltd. It should be noted that this meeting was proposed to be held on the previous Friday, a day that was not convenient to myself, as one of my daughters was returning to Perth to continue her studies on that day.

It should be noted that this meeting was held **4 ½ months** after the Council resolution of February 27, 2008, despite 6 letters, and the presentation of March 26, 2008, whereby Silverfox had requested meetings to begin renegotiation of the lease in accordance with Council resolutions. Prior to this meeting, Silverfox Corporation Pty Ltd, in its letter of 22 pages, dated July 3, 2009, provided to you, as the CEO, detailed information for this meeting. **I repeat 4 ½ months after the Council's resolution.**

At the meeting, attended only by Councilor Charlston and yourself, Councilor Minkom not being present, I was surprised that no attempt was made to begin the process of renegotiation of the terms of the Agreement to Lease and the Lease Agreement that had previously been entered into between the Council and the Silverfox Corporation Pty Ltd.

Instead I was handed a comprehensive schedule of 16 pages that was required to be completed. The schedule basically appeared to be applied to a corporation that was just commencing negotiations with the Cocos (Keeling) Islands Shire Council for a new tourism development, and did not take into account any of the previous negotiations, documentation and approvals that had been previously entered into, or provided, to the Cocos (Keeling) Islands Shire Council or previous Cocos (Keeling) Islands Shire Council recommendations.

The documents previously supplied to the Cocos (Keeling) Islands Shire Council included:

Heads of Agreement

Social Impact Study

Notice of Intent
Draft Environmental Management Plan
Flora Study
Final Environmental Management Plan
Development Plan
Department of Land Administration documentation
Environmental approval
Public Information Document for comments on proposed lease
Public comment period on lease
State Planning Commission approval
Agreement to Lease
Lease Agreement
Business plan and financial projections

Relevant correspondence between the Silverfox Corporation Pty Ltd and CEOs of the Council, including yourself.

Where appropriate, there are previous Council resolutions recording actions on the above.

I was rather therefore extremely surprised at this request, as in dealing with your three immediate CEO predecessors, Chris Jackson, Bob Jarvis, and Bill Price, all were aware of the documentation that had been previously provided by the Silverfox Corporation Pty Ltd at the stages that existed at the time of their employment. For the Council to actually have previously entered into an Agreement to Lease and a Lease Agreement with the Silverfox Corporation Pty Ltd confirms the satisfaction that these CEOs, and the elected members at the time, had with the documentation supplied previously by the Silverfox Corporation Pty Ltd to the Council.

3 Submission by the Silverfox Corporation Pty Ltd following July 15, 2008 meeting

To comply with the requirement of the 16 pages of the schedule the Silverfox Corporation Pty Ltd produced a 201 page document, which was provided to yourself in your position as the CEO, in September 2008. Much of this document related to the cross referencing of items in the 16 pages of schedules to information contained in documents previously supplied to the Council, and where required approved by the Council. If this documentation had not been done, and approved through the Council process, no Agreement to Lease and Lease Agreement would have been entered into between the Council and the Silverfox Corporation Pty Ltd.

On September 25, 2008 I received the following email from you:

September 25, 2008

Thanks Ron

Two copies of the document have been received. They will be reviewed by the committee and independently evaluated against the criteria provided to you on 14 July 2008.

After this process has been completed a meeting will be convened with yourself and the committee, however due to the detail contained in the submission this may take some time.

Regards

Michael Simms
Chief Executive Officer
Shire of Cocos (Keeling) Islands
Tel: (08) 91626649
Fax: (08) 91626668
Email: ceo@shire

A number of points have flowed from this email.

In a number of discussions with one of the Council committee members, as late as December 2008, when he was asking me as to what progress had been made on the Pulu Cocos Resort project, I enquired if he had received a copy of the 201 page document the Silverfox Corporation Pty Ltd had provided to Council in September 2008. He stated he had not, so I provided him with an email copy.

The second point is the reference to the Silverfox Corporation Pty Ltd document being independently evaluated. Now, whether this independent evaluation is to be done by the Council committee members, or some one else, is unclear.

On December 15, 2008 I received the following email from you:

Ron

The evaluation of the application for the renegotiation of the Lease for the Pulu Resort is nearing completion, it is anticipated that this matter will be the subject of a meeting with yourself and the Committee early in the New Year.

You will be advised of the proposed meeting date.

Regards

Michael Simms
Chief Executive Officer
Shire of Cocos (Keeling) Islands
Tel: (08) 91626649

Fax: (08) 91626668
Email: ceo@shire.cc

It is interesting to note that in a **six month period** (September 2008 to March 2009) I have not had one query directed to me, through the independent evaluation process, or from yourself, or from the Council elected committee members, Councilor Charlston and Councilor Minkom on the 201 page Silverfox Corporation Pty Ltd document. **Not one issue to be clarified or expanded upon. Nor has there been any further meetings after the July 2008 meeting.**

I would also point out more that **3 months have passed** since your email of December 15, 2008, and reference to early in the new year has well and truly passed.

4 Revised Business Plan

At the March 2008 presentation given by the Silverfox Corporation Pty Ltd to the Council specific reference was made to the Silverfox Corporation Pty Ltd's Pulu Cocos Resort's business plan and 5 years financial projections, which had been previously discussed with previous CEOs and elected Council members. In the September 2008 Silverfox Corporation Pty Ltd's Pulu Cocos Resort document lodged with the Council, information had been extracted from the business plan and the 5 year financial projections.

Out of courtesy, in January 2009, I supplied you in your position as the CEO with the updated Pulu Cocos Resort business plan and 5 year financial projections, which were being supplied to Senator Trish Crossin in relation to the proposed Parliamentary Inquiry on Economic Development in Australia's Indian Ocean Territories.

5 Environmental Assessment

Just recently, in March 2009, I have also supplied you with an updated Environmental Assessment for the Pulu Cocos Resort.

6 Meeting with Julian Yates, Assistant Secretary, Territories West, Attorney General's Department

On February 25, 2009, Julian Yates, Assistant Secretary, Territories West, met with myself while he was visiting the Cocos (Keeling) Islands, and as on his previous trip, discussion took place on the Pulu Cocos Resort project. He had also been provided previously copies of the Silverfox's September 2008 document and the 2009 Business Plan. He stated that the Pulu Cocos Resort's concept of accessing the Southeast Asian market, which was mainly Muslim, had been discussed and the response he had received was generally good as to the concept. The linking of the Cocos (Keeling) Islands to Southeast Asia by an air service supported by the Pulu Cocos Resort and the Trannies tourism project

would be an advantage for an airline servicing the Cocos (Keeling) Islands, as it would provide an opportunity for airline growth. He voiced the opinion several times, that” “it appeared that it was just a matter of dotting the I’s and crossing the t’s” to get the Pulu Cocos Resort project moving.

7 Trannies Beach Tourism Project

From the documents that the Council have provided in relation to the above, the following time table has been extracted

Issue REOI 14 January 2009

Deadline for lodgement of EOIs 27 February 2009

Release of RFT which may include an island visit April 2009

Deadline for lodgement of RFTs June 2009

Award contract August 2009

I note with interest that EOI’s were to be lodged by 27 February 2009, and that the RFT would be released, which may include an island visit, April 2009. **Therefore within 2 months all the EOIs that had been received would be evaluated**, and as per Point 1.2 of the relevant document: “The Shire currently expects that, following the conclusion of this request for EOIs process, it will shortlist two or more respondents to participate in a request for tender process to provide detailed proposals for the development of the resort”.

In addition, in relation to the Trannies Beach tourism project, the dateline for the lodgement of the RFT is June 2009. As per the document the contract is to be awarded August 2009.

So within a period of two months, potentially consultants to Council will assess and evaluate the RFTs (EOI went to Arup), the Council’s committee on tourism will assess and evaluate possibly two or more RFTs and any relevant consultant’s reports, documentation prepared for councilors, sufficient time allowed for councilors to examine the RFTs and to consult, have community consultation (for both the West Island residents, and the Home Island beneficiaries of the land trust, surely there will be public consultation before a contract is awarded), and have resolutions prepared for Council, and passed by the Council.

Yet in a 13 month period, not one clause of the Pulu Cocos Resort lease, I repeat one clause, has been renegotiated.

The contrast between the Trannies Beach tourism project and the Pulu Cocos Resort project is quite amazing. For the Trannies Beach tourism project, two months from receipt of RFT to contract being awarded, for the Pulu Cocos Resort project, which is far more advanced, in 13 months, not one lease clause has been renegotiated for the previous Agreement to Lease and Lease Agreement, and the committee consisting of yourself, Councilor Charlston and Councilor Minkom, have managed only one meeting with the Silverfox Corporation Pty Ltd, **that being 8 months ago.**

8 Airlines

The current issue of airlines will impact upon tourism in the Cocos (Keeling) Islands. The most significant development being the AIOTA/OzJet service Perth/Christmas/Singapore commencing in April 2009. Passengers and freight that is diverted to the AIOTA/OzJet airline service will reduce passenger and freight up lifts for the Australian Government's contracted airline service to the Indian Ocean Territories, resulting either in higher airfares, higher government subsidies or reduction of the number of flights per week, or a combination. A scene which will impact upon tourism in the Cocos (Keeling) Islands.

The Pulu Cocos Resort project will not be dependent upon an airline service from Perth, and it will open up a Southeast Asia route, which can be interlocked with a service from Perth to Southeast Asia.

9 Economic Environment

The current global and Australian economic environments will impact upon the Cocos (Keeling) Islands. Although the Australian Government is attempting to avoid a recession through stimulus packages, the private sector is increasingly reducing workforces, cancelling projects and looking at other cost saving measures. The stimulus package has been widely accepted as not achieving the level of desired economic results the Australian Government desired, and the Australian Government will ultimately follow the private sector's example. Just last weekend the Australian Prime Minister has stated Australia cannot avoid going into recession.

As the Council is virtually entirely dependent upon Australian Government financial support, with the potential that the same degree of financial support will be subject to evaluation as Australia slips deeper into recession in 2009/2010, I would expect the Council to be very proactive in supporting projects, such as the Pulu Cocos Resort, which would generate income for the Council, and provide an additional financial resource for the difficult period that is coming. Already Australian Government departments have been instructed to reduce their expenditure by 3%, and with falling Australian Government revenues, the need for private sector economic development is even greater than before. The Australian Government is actively attempting to promote new investment in Australia to combat the current difficult economic environment.

10 Conclusion

The elected members have twice, confirmed, as stated in your correspondence, indicated that the Silverfox Corporation Pty Ltd and the Council should enter into discussions to renegotiate the lease for Pulu Cocos Resort. But **13 months after the Council's resolution of February 27, 2009**, not one clause has been renegotiated, and the Council committee (yourself as the CEO, Council Charlston and Councilor Minkom) have managed to only have one meeting with the Silverfox Corporation Pty Ltd, **this being 8 months ago**.

I am constantly being asked by elected members, and members of the Cocos Malay community (which according to a recent Australian article stated that 70% of the Cocos Malays over the age of 18 receive Centrelink benefits) as to the progress of the Pulu Cocos Resort project, and I have explained to them the circumstances which are outlined in this letter.

I look forward with interest to your response

Ron Grant

Director

Copies:

Councilor

Julian Yates – Assistant Secretary, Territories West

Simon Millcock – Economic Development Officer, Territories West

Senator Trish Crossin

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

1.8.3 Silverfox's Business Plan and Environmental Assessment

On January 19, 2009 I delivered to the Council's office for the CEO (Simms) a copy of the Pulu Cocos Resorts updated business plan which was on a CD. As at April 28, 2009 I have received no acknowledgement of receipt, or comments, from the CEO (Simms).

On January 23, 2009, I delivered to the Council's office for the CEO (Simms) a printed copy of the Pulu Cocos Resorts updated business plan, As at April 28, 2009 I have received no acknowledgement of receipt, or comments, from the CEO (Simms).

On March 19, 2009, I delivered to the Council's office for the CEO (Simms) a copy of the Pulu Cocos Resorts updated environmental assessment which was on a CD. As at the date of this document I have received no acknowledgement of receipt, or comments, from the CEO (Simms).

The contrast between the AGD officers and the CEO (Simms) is stark. The Assistant Secretary of Territories West, Julian Yates, located in Canberra, not only acknowledged receipt of the business plan and environmental assessment documents, which had been sent by email, the next working day, but had checked the documents and determined that certain sections were missing. In October 2008 and February 2009, while visiting Cocos from Canberra, he made a point of meeting with me to discuss the Pulu Cocos Resort project.

The AGD's Economic Development Officer, based on Christmas Island, also was sent, by email, copies of the business plan and environmental assessment which he confirmed receipt of. In December 2008, March 2009 and April 2009, while visiting the Cocos (Keeling) Islands he has met 3 times with myself.

The expression of interest for the Council's Trannies Beach Tourism Resort project closed on Friday, February 27, 2009. The CEO (Simms) was in Perth on annual leave and returned to Cocos on March 6, 2009. On March 16, 2009, as advised by two councilors, the CEO (Simms) returned to Perth, in relation to the expressions of interest that had been received by ARUP up to the closing date of February 27, 2009. It would therefore appear that the CEO (Simms) had the best part of a week off Cocos, during which he dealt with issues arising from the expressions of interest.

Yet, in relation to the Silverfox's Pulu Cocos Resort project he has managed one meeting in more that 14 months, as at April 28, 2009 and not one clause of the Agreement to Lease or the Lease Agreement have been renegotiated,

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

1.8.4 Silverfox's letter of April 22, 2009

Silverfox wrote to the CEO (Simms) on April 22, 2009, following up its letter of March 23, 2009. To date this letter has not been acknowledged, or responded to.

1.8.5 Shire President's Email of April 23, 2009 to CEO (Simms)

The below email was sent on April 23, 2009 by the Shire President (Mohammad Said) to the CEO (Simms). It was obvious from the email the Shire President was having concerns in that he was prepared to bypass the CEO (Simms) and the Council's sub-committee, and permit Silverfox to address the full Council at a special meeting of Council.

Sent: Thursday, April 23, 2009 9:37 AM
Subject: Pulu Cocos Resort [SEC=UNCLASSIFIED]

Hi Mick,

I had received the copy of the letter dated April 22, 2009 addressed to you from Silverfox Corporation.

After reading the contents of that letter, I would like you to arrange a meeting sometime next month before the next council ordinary meeting for all councillors and Silverfox to discuss this matter.

I'm aware we have a committee to deal with this matter but I think it is appropriate to give the Silver Corporation the opportunity to meet with council to have discussion regarding this matter.

In the mean time, please could you acknowledge and outline any issue that is causing delay in proceeding with the renegotiation to lease of part Lot 100 West Island for tourist resort development.

Please, cc your acknowledgement to each of those people who had received the copy of the letter from Silverfox and the copy of this email to all councillors who didn't have access to an email.

Thanks and regards,

Mohammad

1.8.6 CEO (Simms) Response to Shire President's Email of April 23, 2009.

On April 29, 2009, the CEO (Simms) wrote to Silverfox, a 4 page letter, covering 7 issues. On May 8, 2009, Silverfox replied with a 47 page letter addressing the issues raised by the CEO (Simms). To date no acknowledgement of receipt of the letter has been received, nor have any of the issues contained in the letter been addressed by the CEO (Simms).

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

1.8.7 Special Meeting of Council held on June 3, 2009.

As per the Shire President's (Mohammad Said) request a special meeting of Council was held to address the issues relating to Pulu Cocos Resort, on June 3, 2009. I informed the elected members at this meeting that I was prepared to 'draw a line in sand' and to work together to progress the project, but I needed to have 'face to face' discussions with the CEO (Simms) to review the Agreement to Lease and Lease Agreement to identify issues that had to be resolved. The CEO (Simms) was reluctant to have any face to face meetings until he had had an independent review of the business plans submitted in January 2009 for the Pulu Cocos Resort project. This was the first time that I had heard of the requirements for an independent review of the Pulu Cocos Resort business plan being required.

Councilor Charlston, who was acting as the presiding member, stated that the CEO (Simms) had informed him that on a number occasions requested additional information from me. I clearly stated that this was not correct, and the least communication that I had had from the CEO (Simms) was his email of December 15, 2008. This is the reason why I had written to Simms on March 23, 2009 and April 22, 2009, as I was not receiving any communication from the CEO (Simms). I also had not received any acknowledgment of Silverfox's letter of May 8, 2009, that responded to the CEO's (Simms) letter of April 29, 2009.

It was agreed by the elected members that the CEO (Simms) would meet face to face with me and that an independent review of the business plans would be undertaken. I had no problem with the independent review of the business plan as the CEO (Simms) obviously did not have the expertise to do it, and in lieu of himself no doing it, Council would contract with some one to do it. At this point I was under the impression that the independent review would be the responsibility of Council.

1.8.8 Face to Face Meeting June 10, 2009.

On June 10, 2009 I met with the CEO (Simms) and was virtually told straight away two things:

That the independent review of the business plan was to be undertaken, and Silverfox was to pay for it, as per a Council decision. This was the first that I had heard of Silverfox paying for the independent review. I also spoke to 3 councilors subsequently, and all 3 knew nothing about Silverfox being required to pay for the review. It was interesting that when the special council meeting of June 3, 2009, ended, all the councilors left at the same time as myself, and the next Council meeting that was held was on June 24, 2009. So it is difficult to see how the Council had decided that Silverfox was required to pay for the independent review.

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

A list containing the names of 4 consultancy firms, which according to the CEO (Simms) had experience with Cocos. Each of the firms was a consultancy firm involved in engineering, construction, infrastructure and environmental consultancy. Not one was involved in tourism, and the specific niche market that Pulu Cocos Resorts would be involved in.

1.8.9 Council's Meeting of June 24, 2009

I received the flowing email from the CEO (Simms) following the Council meeting of June 24, 2009.

[Michael Simms](#)

To: '[Ron Grant](#)'

Cc: '[Shane Charlston](#)' ; '[Aindil Minkom](#)'

Sent: Thursday, June 25, 2009 9:07 AM

Subject: RE: Pulu Cocos Resort - Independent Assessment

Ron

Copies of the Pulu Cocos Business Plan are in the process of being forwarded, in disc format, to the nominated companies for independent assessment. You will be advised when responses for the assessment have been received.

At the Ordinary meeting of Council last night, 24 June 2009, Council adopted the following resolution in regard to this matter:

1. That the appointment of the consultant for the proposed Pulu Cocos Resort be by mutual agreement of the Council and Silverfox Corporation Pty Ltd.
2. That Silverfox Corporation Pty Ltd receive a copy of the consultant's report.
3. That the consultant's fee payable by Silverfox Corporation Pty Ltd for the submission by Silverfox Corporation Pty Ltd for the proposed Pulu Cocos Resort be deducted from the fee for the Application for Approval to Commence Development and the Application for Building Approval for the development of the proposed resort.

You will be advised as this matter progresses.

Regards

Mick

Michael Simms

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

1.8.10 Comments on Independent Review of Business Plan for Pulu Cocos Resort

The following issues relate to the CEO's (Simms) request for an independent review of the Pulu Cocos Resort business plan:

Previous reviews undertaken prior to signing of Agreement for Lease and Lease Agreement.

All the issues that the CEO (Simms) has requested from an independent review have already been addressed by previous CEO's prior to the Agreement for Lease and Lease Agreement being signed previously, which Simms terminated

Silverfox September 2008 document and Independent evaluation

In September 2008 Silverfox submitted a 200+ page document following on its July 2008 meeting with the CEO (Simms) and the Council's Tourism Committee, and the following emails from the CEO relate to this document:

September 25, 2008

Thanks Ron

Two copies of the document have been received. They will be reviewed by the committee and independently evaluated against the criteria provided to you on 14 July 2008.

After this process has been completed a meeting will be convened with yourself and the committee, however due to the detail contained in the submission this may take some time.

Regards

Michael Simms

December 15, 2009

Ron

The evaluation of the application for the renegotiation of the Lease for the Pulu Resort is nearing completion, it is anticipated that this matter will be the subject of a meeting with yourself and the Committee early in the New Year.

You will be advised of the proposed meeting date.

Regards

Michael Simms

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

If an independent assessment was being carried out on the September 2008 document why was another independent evaluation required on the business plan lodged in January 2009, and why was Silverfox required to pay for the review of the business plan, and not for the review of the September 2008 document?

CEO's (Simms) Letter of April 29, 2009

As a direct result of being instructed by the Shire President (Shire President's email of April 24, 2009) the CEO (Simms) wrote a 4 page letter to Silverfox outlining 7 issues that he had identified. Each of the issues he raised had been extracted from the Pulu Cocos Resort business plan, so the CEO (Simms) would have had to have reviewed the business plan. There was no mention in the CEO's letter of April 29, 2009, that an independent review of the business plan was required, **As he had obviously reviewed the business plan to identified only 7 issues, why is an independent review of the business plan required when he had already reviewed the business plan and identified issues?**

Independent Review of the Business Plan to be conducted by Economic Development Officer, AGD (Christmas Island)

After the Special Council meeting of June 3, 2009, I suggested to Councilor Charlston, who acted as the presiding member at the meeting, that Simon Millcock, the Economic Development Officer be approached to assist in the independent review of the Pulu Cocos Resort, as he was extremely well qualified to undertake such a review.

The following email was received from Councilor Charlston in relation using Simon Millcock that related to the independent assessment.

From: [Shane Charlston](#)
To: 'Ron Grant'
Sent: Thursday, June 04, 2009 8:46 AM
Subject: RE: Pulu Cocos Resort – Independent Assessment

Thanks Ron a very good option and advice. Can I fwd this to Mick for comment
Shane

I was therefore surprised when at the face to face June 19, 2009, meeting when the CEO (Simms) produced an email from an AGD officer in Canberra, Steve Clay, who did not agree with the use of the EDO, Simon Millcock.

Following the face to face meeting I emailed Simon Millcock an update of the meeting. Approximately 30 minutes after sending the email Simon Millcock telephoned me to discuss the email I had sent. He stated that the CEO

Issue #1: Silverfox Corporation Pty Ltd – Pulu Cocos Resort Project

(Simms) had not contacted him in relation to the issue of an independent review of the business plan. He had no knowledge of the email Steve Clay had sent, and he was seeking answers as he was the Economic Development Officer and such issues one would expect to be addressed through him by the CEO (Simms).

The question is why the CEO (Simms) had not contacted the EDO, Simon Millcock, direct, who had responsibility for the promotion of economic development for Cocos and Christmas for the AGD?

Trannies Beach Tourism Project of the Cocos (Keeling) Islands

The requests for expressions of interest for the Council's Trannies Tourism Beach project closed in February 2009. It was intended that a number of expressions of interest would be selected to proceed to the request for proposal stage. At each stage an evaluation would be done by an evaluation team which would consist of the CEO (Simms), a representative of the AGD, and a representative of Arup, It was intended that a contract would be awarded in August 2009.

The question that has to be asked is, if the CEO (Simms) actually took part in evaluating a number of EOIs, and if the project had progressed to the RFP stage, he would have also been involved, why could he not evaluate the business plan for the Pulu Cocos Resort?

Secondly, in the expression of interest documentation, there is no mention of the RFP, which would have to include a business plan, would have to have an independent assessment undertaken, and paid for by the corporations submitting the RFP.

Business Plan

The business plan was submitted in January 2009 to the CEO (Simms).

It was only in June 2009 that the CEO (Simms) informed Silverfox Corporation for the need for an independent assessment.

Issue # 2: Trannies Beach Resort Project

Brief

The Trannies Beach Resort project was a Council project for a small scale eco tourism resort development on West Island. The key dates that were identified were:

Issue REOI 14 January 2009

Deadline for lodgement of EOIs 27 February 2009

Release of RFT which may include an island visit April 2009

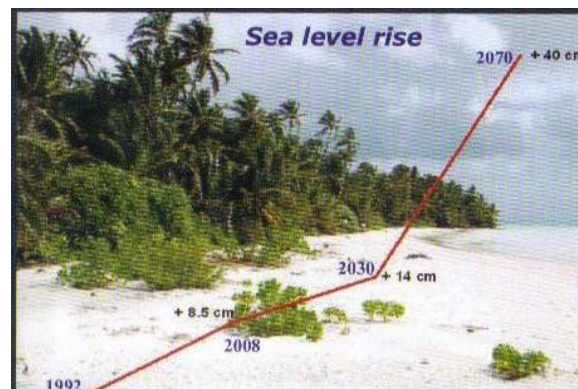
Deadline for lodgement of RFTs June 2009

Award contract August 2009

Discussion on the Trannies Beach Resort project commenced as early as July 2007, when I was the Shire President, but Expressions of Interest ('EOI') were only called in February 2009, a period of 18 months.

It was interesting to note that in the EOI documentation that was there no disclosure of the material fact that the Council was still in the process of renegotiating the lease with Silverfox in relation to the Pulu Cocos Resort, which is located less than 2 kilometers from the proposed Trannies Beach Tourism project. It was also interesting to note that corporations responding to the EOI were not informed as to the contents of the AGD reports on climate change, demographics and economic development, all of which were available prior to the closing date for the EOI, February 27, 2009. The below photograph discloses the impact of climate change on sea levels at the Trannies Beach site, the location for the proposed resort. This information was presented publically on Cocos in February 2009, before the EOI closure date, by representatives of the consultants and the AGD.

The below extracted from the AGD Information handed out on Cocos in February 2009 prior to the closing of the EOI – The site is Trannies Beach the location for the proposed Council Tourism Resort Project



Issue # 2: Trannies Beach Resort Project

The below is an extract from the documentation handed out publically on climate change in February 2009 on Cocos.

The Cocos (Keeling) Islands have a great potential for nature-based tourism. However, climate change is likely to represent an obstacle for future development. Degradation of beaches, bleaching of coral reefs and increasing vulnerability of coastal infrastructure need to be considered in future planning.

As the Silverfox Pulu Cocos Resort had a very specific Muslim market in Indonesia, the Trannies Beach proposal was not seen as a direct competition.

In fact from previous contacts I had, I approached 4 corporations to submit EOIs. 2 corporations from SE Asia declined to submit EOIs based upon the manner in which Silverfox had been treated by the Council, as in their view such an image as projected by the Council was not conducive from an investment point of view. 2 corporations submitted, Macquarie Builders Pty Ltd (who had in recent years completed 3 life style projects) and OnRoad OffRoad Pty Ltd (who operations included a eco-hotel) submitted EOIs, on the basis that there was to be Council elections in October 2009, and new CEO early in 2010. I prepared for both corporations detailed EOIs, for which I made no charge, as I wanted to see economic development for Cocos.

On April 22, 2009, Macquarie Builders Pty Ltd and OnRoad OffRoad Pty Ltd, were advised by Arup, the consultant's for the Council's Trannies Beach tourism project that they had been unsuccessful. This came as a shock to both as they had submitted very detailed EOIs, and not once did they receive any request for any additional information. Macquarie Builders Pty Ltd, who had completed 3 similar projects, stated they had never been treated in such a manner by any local government that they had dealt with.

It is interesting to note that only 3 EOIs were received, 2 were based upon the submissions that I had prepared.

Taking into account the global and Australian economic environment that had developed at this time, and the small number of EOIs received, I would have expected the Council to have been more pro active in working with I of the 3 EOIs, even if it was not 100% what was desired by the Council. Two prospective investors have however walked away with a negative experience, and once again the community lost an opportunity.

Issue # 3: Coconut Timber Project

Brief

The coconut timber project (investment of \$250,000, employment – 3 to 4 people) based upon a recommendation by the CEO (Simms) in December 2006, was not approved for specified reasons relation primarily to its location, Lot 24, West Island in 2006.

- a) Lot 24 is a land locked property and it were to be leased it would require an easement to be established through an adjoining property.
- b) The proposed process involves drying timber in open sheds, in addition to preservation of the timber through a process using chemicals to prevent attack by fungus and termites. The chemicals used in this process contain arsenic and other carcinogens. The use of chemicals containing these agents adjacent to a significant freshwater supply for the residents of West Island is unacceptable and is not approved by the department of Environment and WaterCorp.
- c) The proponent indicated in his application that he intended to construct a dwelling on the property in which he intended to reside. The Shire of Cocos (Keeling) Islands Town Planning Scheme No. 1, identifies the use of a single house in an area zoned industrial as a use not permitted by the Scheme.
- d) Lot 24 is parallel to and adjacent to the northern end of the runway. Prevailing winds necessitate aircraft landing approach to Cocos from a northerly direction; consequently any development on land adjacent to the runway would provide a visual entry statement for visitors to Cocos. Development of land adjacent to a major access to Cocos should be designed to provide a vision that enhances the natural character of the islands. A sawmill and drying sheds may not be capable of being suitably designed to portray this image.
- e) To provide for the development of Lot 24, the proponent would require the provision of essential services such as water, electricity and sewerage. These services are currently not available to this property. From preliminary enquires it is estimated that to extend the current services to provide water and power to Lot 24 would cost in the vicinity of \$20,000. This cost would be required to be provided by the applicant. To extend the vacuum sewerage service would cost in the vicinity of \$60,000, and whilst this service is required to be borne by the service provider, there are no budgetary provisions to allow for the extension of this service in the foreseeable future.

In view of the preceding issues it may be inappropriate for Council to consider the proposed development of a sawmill, drying sheds and accommodation on Lot 24 West Island.

FINANCIAL IMPLICATIONS

There are no financial implications associated with this application

STRATEGIC IMPLICATIONS

Under the provisions of the Town Planning Act, Council has a statutory requirement to comply with the requirements of its Town Planning Scheme.

Issue # 3: Coconut Timber Project

On February 25, 2009, the CEO (Simms) recommended for the same site (Lot 24) a concrete batching plant for Thomson Construction. Even though approved at the Council meeting of February 25, 2009, subject to a lease agreement being prepared and approval by regulatory authorities, Thomson Construction had already partially constructed its cement batching plant before all legal lease documentation had been approved and all required regulatory approvals had been obtained.

<i>RECOMMENDATIONS:</i>	
1.	<i>That under the provisions of the Shire of Cocos (Keeling) Islands Town Planning Scheme No.1 Council exercise its discretion by granting planning approval for the establishment of a concrete batching plant on Part Lot 24 West Island.</i>
2.	<i>That Council invites Thomson Constructions to enter into an agreement to lease Part Lot 24 West Island for a period of 5 years with an option to negotiate a lease for a further 5 years at the expiry of the initial period.</i>
3.	<i>That the annual rental for the lease of Part Lot 24 West Island is \$12,740 and is to be reviewed annually.</i>
4.	<i>That this approval is subject environmental considerations and approval by other statutory authorities (WaterCorp)</i>
5.	<i>That the applicant meets all costs associated with providing services to the subject property.</i>

What is of further interest is that in October 2002, the application for a concrete batching plant from Bruce Barlow, another person involved in the construction industry was not approved, as a formal disclosure would be required to be made by the Council under the Environmental Protection and Biodiversity Conservation Act 1999 because:

The issue here in relation to economic development is why were the same conditions that were applied to Dave Morgan in 2006 for his coconut timber project not applied by the Council to the application for a concrete batching plant for Thomson Constructions?

Once again such recommendations do nothing to encourage economic development projects.

Issue # 4: Small Business Development Corporation

Brief

The Western Australian Small Business Development Corporation has an SDA with the AGD to provide assistance to small businesses on Cocos. The Council was appointed the SBDC agent on Home Island. In March 2009, the SBDC appointed an on island representative, based on Christmas Island, but to service Cocos also, to replace the Council as its agent on Cocos. As a result small business on Cocos no longer have on island representation, and are now dependent upon the Christmas based SBDC on island representative. The demand for small business services is growing on Cocos.

The issue here is why did Council fail to deliver the SBDC on island services when there is a growing demand for such services, and why are these service now being provided from Christmas Island?

Issue # 5: Australian Indian Ocean Territories Regional Cooperation

Brief

The Indian Ocean Territories Policy Forum ('IOTPF') was established by the West Australian Local Government Association to facilitate regional local government cooperation for the Cocos (Keeling) Islands Shire Council and the Christmas Island Shire Council. This worked successfully to October 2007, and when the new Council was elected in October 2007, the CEO (Simms) did not propose any committee be formed to continue the work of the previous IOTPF committee. The regional cooperation ceased at this point.

Regional cooperation is of critical importance and the question that has to be asked is why was the Indian Ocean Territories Policy Forum discontinued after October 2007, when regional cooperation is vital?

Issue # 6: Cocos (Keeling) Islands Shire Council - Community Services Manager's Position

Brief

The Manager Community Services Projects was a full time appointment within the Cocos (Keeling) Islands Shire Council. Identification of Australian Government grants for the Council, community organizations and individuals of the community are important. The responsibilities of this position included:

Preparation of grant submissions for the Council, community organizations and individuals of the community.

Monitoring of the grant processes for the Council, community organizations and individuals of the community.

Financial reporting aspects for grants for Council, community organizations and individuals of the community.

Liaison with finance staff of the Council on grants

In early 2009 the previous Manager Community Services Project resigned, and the Revised Council Budget disclosed that the Manager Community Services Projects position had been downgraded to a part time Community Services Projects Officer's position, with the Revised Budget showing an expense saving of \$21,500.

The Minister for Home Affairs announced the construction of a Community and Recreational Facility (\$5 million) for West Island; \$100,000 has been allocated to the Council under the Regional and Local Community Funding Program and there is now an extensive range of Australian Government stimulus programs, and there is a greater need for the position of Manager of Community Service Projects, not a lesser need. In 2008 a junior position was created by the Council, Youth Officer, but this position does not compensate for the loss of the full time Manager of Community Services Projects.

To date this position has not been filled, and a full time Manager of Community Services Projects position has been reduced to a part time Community Services Project Officer position at a saving of \$21,500 (Revised 2008/2009 Budget) The demand for the services for such a position are increasing.

Issue # 7: Community Consultation

Brief

The Council controls 6/7ths of the land on the Cocos (Keeling) Islands through two land trusts, but they are held in trust for the benefit, advancement and well being of the beneficiaries of the two trusts (The Cocos Malays).

There is a strong feeling among the Cocos Malays, as the beneficiaries of the trusts, that the Council's consultation with the beneficiaries is inadequate. Advertisements in the Atoll publication is not community consultation.

Examples of this lack of consultation with the beneficiaries of the land trusts (the Cocos Malays) through public meetings have included: the future of the Cocos Farm site, the extension of the Mahoon Road, the Trannies Beach Resort project (advertisement does not replace public consultation) all of which relates to land trust lands, and impact upon the selections of alternatives for economic development.

Issue # 8: Home Island Satellite TV

Brief

The Cocos Malay community on Home Island pay an annual fee to the Council for the provision of a satellite TV service distributed by cable to the houses. The Cocos Malay community are very dependent upon TV programs from the greater Malay world, but this service from Asia has slowly been reduced to 2 channels from Indonesia. The infrastructure is deteriorating and the Cocos Malay community are concerned they will lose a service that they pay for, and do not see infrastructure being replaced, but see the Council spending \$35,000 on a new boat for the CEO, who has a short term, 12 months, employment contract, and greater expenditure on accommodation being provided to the CEO, in the form of the previous Administrator's house.

Issue # 9: Land Trust Future

Brief

6/7ths of the land on the Cocos (Keeling) Islands is held by the Council in trust for the benefit, advancement and well being of the beneficiaries, the Cocos Malays. In addition to this role, the Council performs the usual local government role of approving planning applications, issuing building licenses and health related issues, which is really a conflict situation.

The below table (based upon the Council's 2008/2009 Budget) shows that the ownership of 6/7ths of the land, and structures on them (e.g. houses on Home

Issue # 9: Land Trust Future

Island) by the Council has generated revenue only of \$489,770 (including house rent - \$260000). This means that revenue from economic activities was only \$229,770.

	Schedule	\$
<u>Revenue</u>		
Kampong house rental	9	260000
Kampong house insurance reimbursement	9	40000
Kampong lease income	9	2500
pension and concessions	9	1000
Business Centre rental	13	9900
Community Resource Centre	13	24600
Lease Lot 245	14	10000
Lease Cooperative	14	31000
Lease Fuel Depot	14	32000
Lease Commonwealth	14	43500
Lease Tycraft	14	1680
Lease RAAF	14	26900
Lease Kelapa Gading	14	4100
Lease Lot 104	14	1200
Lease Emma washer	14	1390
Total		489770

The issue here is would it be better for the land trusts to be placed under a separate Cocos Malay authority, other than the Council?

Issue # 10: Cost of Living

Brief

The price of basic consumer goods (e.g. food) has to reflect the cost of either air freight or sea freight. People employed are compensated to a degree through location allowances and zone rebates within the taxation system. People on Centrelink benefits do receive a remote area allowance.

The issue relates to how much prices reflect poor management of organizations supplying the food, or even excess profit taking by organizations. The question this point raises is: Do prices that are charged reflect issues other than cost of goods, freight and a reasonable profit margin?

Issue # 10: Cost of Living

The below emails from Ms Asmawati Jim's provide a degree of background:

From: Asmawati Jim [mailto:ratna_mim@hotmail.com]
Sent: Tuesday, 3 February 2009 1:44 PM
To: ratna_mim@hotmail.com
Subject:

"Dear Steve Batley,

I would like to bring to your attention the extraordinary price increases at Home Island supermarket, mostly for fresh fruits and vegetables. I can understand a justifiable price increase of a few cents or even a couple of dollars, but as I mentioned, the price increases have been extraordinary. In the case of fresh fruits and vegies, the prices have gone up to more than double the original prices – let me give you some examples in case you are not aware of this:

- • Kangkong – usually costing around about \$6 per bunch suddenly went up to more than \$14 a bunch.
- • Grapes – usually \$25 a kilo, now suddenly around \$40 a kilo.
- • My friend bought 3 nectarines costing a total of over \$21.00 – and these are relatively small in size, probably weighing less than 300 grams in total. How do you justify charging \$7 per nectarine?
- • Cauliflower – usually between \$7-\$8 for half, now over \$11 for just half of a (small) cauliflower.
- • Eggplant - usually around \$6 each now costing up to over \$10 each.

What is also appalling is the fact that the price increases were implemented without any notice to the community at all. Imagine our surprise when we picked up our routine fruits and veggies and discovered that we were suddenly paying double the amount we usually pay. Yes, we realize that fresh fruits and vegetables are usually among the most expensive items in the shops but a sudden price increase of over (in some cases) DOUBLE the original price? How is that justified?

The Co-op prides itself on being an active community member – where was your consideration for the community when you hiked up your shop prices without warning and (it seems) without reason.

I understand that we are in an economic downturn and the Co-op would no less be affected by this as would all other businesses, but even if the Co-op was putting up prices to compensate for this or any other increase in operating costs (eg. the increase in Co-op staff wages, or an increase in freight costs) is this justifiable for a 100% increase in prices?

If it's not too much trouble, I would appreciate a reply and an explanation on the sudden price increase and details of how the price increase is justified – where are the extra costs derived from and how are they implemented into the cost of goods in the supermarket? Do the increases only apply to Home Island supermarket or should the community also expect sudden price increases to all of the Co-op's subsidiary businesses?

Yours Sincerely,
Asmawati Jim"

Issue # 10: Cost of Living

From: steve..batley@kampong.cc
To: ratna_mim@hotmail.com
CC: balmut@kampong.cc
Subject: RE: Price increases at Home Island Supermarket
Date: Tue, 3 Feb 2009 14:45:57 +0630

Dear Asmawati Jim

It is disappointing that you didn't just ring me and this misunderstanding could have been fixed then and there.

There has been a review of prices that the Co-Operative retails at all of its outlets and it appears that the calculations for fruit and vegetables were amended in error.

The retail margin on fruit and vegetables has not changed, with the only variable being the cost price of the items.

As this is a Co-Operative error, we are willing to provide refunds for all overcharged fruit and vegetables. Could you advise your friend to speak to Alim at the supermarket, provide the receipt of the goods purchased and the overcharge will be refunded.

As earlier stated all this could have been sorted out with a simple 'phone call obviating the need to compose lengthy Email messages.

If you have any other queries in future, please do not hesitate to call me.

Regards.

Steve Batley

General Manager

Cocos Islands Co-Operative Society Limited

Ph 08 9162 6702

Facsimile

From: Asmawati Jim [mailto:ratna_mim@hotmail.com]
Sent: Wednesday, 4 February 2009 9:37 AM
To: Steve Batley
Cc: Balmut Pirus
Subject: RE: Price increases at Home Island Supermarket

Dear Steve

Batley,

Thank you very much for your reply. I really appreciate you getting back to me.

Issue # 10: Cost of Living

I felt the need to put something in writing because as far as I know this was to be a permanent price markup and I'm sorry but this was not just a 'blimp' but a huge and obvious mistake that was conducted by your staff on behalf of your organisation..

If it was just a notice saying fruits and veggies are going to be increased to so and so prices then yes, I probably would have just called you up and asked. But, the prices were actually IMPLEMENTED.

People were charged and people paid for three days in a row according to the 'new' prices and it seems to me that none of your supermarket staff including the manager even deigned to review the prices when it was so obviously and blatantly wrong! Even when customers were obviously disgruntled, commented and asked about the ridiculous markup the overall response from Co-operative staff seemed to be 'I don't know, don't ask me - those are just the new prices' - unacceptable, when they could've simply picked up the phone and called you up or even West Island shop and compare prices.. This to me shows extreme unprofessionalism and a disregard to simple customer service.

It also seemed that until this matter was brought to your attention and the committee yesterday, Co-operative was quite happy to be overcharging the community.

It is disappointing that none of us received an apology from either Co-operative staff members or Co-operative committee members over this issue.

Yours Sincerely,

Asmawati Jim

Even with ship now settling into a more frequent shipping cycle, the Cocos Islands Society Ltd's supermarkets are constantly running out of stock, and items have to be flown up, with the consumers paying for the more expensive air freight, rather than the cheaper sea freight.

Issue # 11: Marine Resources Projects

Brief

The AGD has entered into a service delivery agreement with the Western Australian Department of Fisheries in relation to the Cocos (Keeling) Islands. However, there are at least 3 projects that have stalled, or not progressed, because of actions of the Department of Fisheries (e.g. Beche de Mer, crystal crabs and clams)

The following are a series of emails relating to separate projects, and I believe Nyall Ledger has submitted a separate submission on beche de mer.

Issue # 11: Marine Resources Projects

Email from John Wheatland, Australian Premier Seafoods – September 10, 2008

Crystal Crab Project

RON,

NOTHING WILL EVER HAPPEN IN COCOS HOW MANY INVESTORS HAVE YOU LOST THROUGH BEAURACRATIC BULLSHIT WE HAVE JUST ABOUT HAD ENOUGH I AM WORKING OVERTIME TO KEEP RAY AND IAN ON TRACK THEY ARE SAYING TO HELL WITH IT.TELL THEM BASED ON THE WEST COAST DEEP SEA CRAB FISHERY THIS IS A SUSTAINABLE FISHERY I WAS INVOLVED IN THE INCEPTION OF THIS INDUSTRY .SO TO TURN AROUND AND SAY THAT THEY WANT TO DEVELOP A MORE STRATEGIC APPROACH IS A LOAD OF WAFFLE.YOU ARE 3000 KM AWAY THE FUEL TO GET THEIR ALONE WILL BE OVER \$20000. AND THEY ARE TRYING TO DETERMINE WHETHER ANY LOCAL STOCKS ARE CAPABLE OF BEING HARVESTED COMMERCIALY. HOW THE BLOODY HELL ARE THEY GOING TO DO THAT THE ANIMAL LIVES BETWEEN 600 AND 1000 METRES DEEP ARE THEY GOING TO DUCK DIVE OR PAY FOR A RESEARCH VESSAL TO GO UP THERE .I DONT THINK SO.THEY DO NOT HAVE EXPERTISE. IT WILL NOT BE A CHEAP EXERSIZE THAT WE WANT TO ATTEMPT IF IT IS NOT VIABLE WE WONT DO IT BUT I NEED TO KNOW IF THEY ARE THERE CAN WE DO IT.OTHERWIZE TO KEEP GOING DOWN THIS PATH WILL BE A GOB FEST FOR NEXT 50 YEARS.IF THEY WANT US TO DO RESEARCH WE WILL DO IT FOR A COST TO THERE CONDITIONS.BEFORE WE APPLIED FOR THIS LICENSE DID THEY KNOW THEY WHERE THEIR WE STILL DONT KNOW.FEEL FREE TO PASS THIS ON TO POWERS THAT BE THANK YOU FOR YOUR EFFORTS TO DATE BUT THIS SEEMS A CRAZY WASTE OF TIME AND MONEY HOW DID AUSTRALIA GET TO 20 TH CENTURY WE SHOULD STILL BE EARLY 1900S

REGARDS

JOHN WHEATLAND

AUSTRALIAN PREMIER SEAFOODS

Email from John Wheatland, Australian Premier Seafoods – September 10, 2008

Crystal Crab Project

RON,

WE WONT GET ANY CHANGE OUT OF \$120,000.00 AND IT THIS POINT THERE IS NO GARUANTEE THAT THEY ARE THERE.WE WOULD EMPLOY DIRECTLY 12 PEOPLE INDIRECTLY PROBABLY ANOTHER 20 MECHANICS ELICTRICIANS ETC

REGARDS

JOHN WHEATLAND

AUSTRALIAN PREMIER SEAFOODS

Issue # 11: Marine Resources Projects

Crystal Crab Project

Email from Fisheries WA – January 20, 2009

Hi Ron

Thanks for your email.

We haven't forgotten about you and the crystal crab project proposal you submitted. We are still trying to find an appropriate person to undertake a broader review of the issues associated with the development of new commercial developing fisheries at the IOT's. I am hoping to have someone working on this project before the end of the financial year - at which stage we can then consider your application in light of this review.

How are things going on the Island? I note that AGD have announced the contractor who will be building the rumah baru development. I will keep you posted on things from this end as they progress, and will let you know when we're planning on visiting the islands again next time.

Kind Regards

Rachel Green

Regional Fisheries Management Officer - North
Department of Fisheries WA

Email from Ray Marshall – July 14, 2008

Clam Project

Hi Ron I have just read the comments from Fiona Vom Berg and quite frankly it is all getting to hard. I have spoken to John and he will be I touch shortly to let you know where we as a group are.

As an individual who has interests in the Cocos I have decided that any money or effort put into helping develop (economical) the Islands appears fraught with disaster.

I have left it up to Ian and John as to whether we pursue these projects any further, but my input has been to cut our losses and look elsewhere.

I will be up in a few weeks and will give you a call, Ian flies in today.

Ray Marshall

What procedures does the AGD have in place to monitor applications relating to fisheries in the Cocos (Keeling) Islands with Fisheries WA?

It can be seen from the above that there are major issues to be addressed by the AGD in relation to the SDA with Fisheries WA.

Issue # 12: Economic Development Officer, AGD Christmas Island

Brief

The appointment by the AGD of an Economic Development Officer for the Australian Indian Ocean Territories, based on Christmas Island, is a positive move. The Economic Development Officer, since his appointment in December 2008, has made two visits to Cocos prior to the end of March 2009.

However, it should be noted that the Economic Development Officer operates within the same Territories West Branch structure that existed before his appointment. This is the same senior officer structure that awarded the Australian Government contract to SkyAirWorld for airline services to the Indian Ocean Territories.

In addition it is more than 16 months since the previous Administrator left, and this position is yet to be filled by the Australian Government. The Administrator is an essential position as it provides the community with an independent access to the Minister for Home Affairs, which counters the AGD.

The Economic Development Officer had advised me that two of his key objectives were to attract investment, and increase the number of residents, for the Indian Ocean Territories. It is interesting to note that the Council is achieving the exact opposite, investments has been discouraged or stalled, and there is an increasing emigration off Home Island.

It is interesting to note that recently the Minister for Home Affairs announced the members of the Cocos (Keeling) Islands Economic Development Consultative Group. It was intended that this Group would have a membership of 7, but only for nominations were received. No nominations came from the Cocos islands Cooperative Society Ltd (Manager or elected members) or the Council (CEO or elected members).

The key question is how is the Economic Development Officer going to achieve the goals of attracting investment, and increasing population, when the Cocos (Keeling) Islands Shire Council, owner of 6/7ths of the land on the Cocos (Keeling) Islands does not have a proactive record in supporting economic development?

Issue # 13: Air Services

Brief

Air services are vital to economic development for the Australian Indian Ocean Territories. The spectacular collapse of SkyAirWorld, reported as having liabilities of between \$65 to \$80 million, approximately 2 months after being awarded the airline contract by the AGD for the Australian Indian Ocean Territories has placed an even greater focus on airline services.

The key issue for airline services is to look beyond the previous services, and this can only be done through economic development . In particular for Cocos it means accessing SE Asia international hubs, and connecting those hubs with international flights from Perth.

Issue # 14: Quarantine Station

Brief

The former Animal Quarantine Station on West Island has not been operational for many years, the last time being for an elephant quarantine. There have been numerous enquires to access the accommodation (4 houses, 2 blocks of 4 self contained units each), workshops, storage areas, offices and laboratories. All have been denied due to the inability of the various Australian Government departments to reach agreement as to the future use of this facility. The facility has therefore deteriorated.

However, in relation to the Rumah Baru marine facility which is to be built, the contractor, Wylie and Skeen, have been granted use of portion of the facility, as has the Council..

This is a valuable facility, and denying it for economic development, is not rationale.

RESUME .

Academic Qualifications: Master of Business Administration(Major environmental management)

Master of Asian Sustainable Development

Master of Asian Studies

Master of Defence Studies

Master of Arts (Islamic Studies)

Master of Social Sciences (International Development)

Graduate Diploma in Islamic Studies

PhD (in progress – Thesis – “Islam and the islands that Time Forgot. A History of Islam in the Cocos (Keeling) Islands))

Professional Qualifications: Associate of the Institute of Chartered Accountants of Australia

Fellow of the Australian Society of Certified Practicing Accountants

Member of the Malaysian Association of Certified Public Accountants

Associate of the Australian Institute of Management

Other Qualifications: Justice of the Peace

Employment History: **Silverfox Corporation Pty Ltd (1995 - present)**
Cocos (Keeling) Islands.

Chairman and Chief Executive Officer

Tourism development

Resource development

Logistic development

Strategic Management Planning

Regional Consultancy

Environmental Consultancy

Cocos Islands Co operative Society Ltd (1986 - 1995)

Cocos (Keeling) Islands

General Manager

Tourism, Retailing, Shipping, Stevedoring,
Construction, Contract Labour and Airline
Services

Comserve Australia Pty Ltd (1985 - 1986)

Perth, Western Australia.

Chief Financial Officer

Computer consulting, training and bureau with
markets in Australia and Malaysia

Heli Orient Pty Ltd (1979 - 1985)

Singapore

Group Director of Finance and Administrator.

Commercial Director

Director of Finance

Financial Controller

Aerospace industry with markets in Southeast Asia,
South Asia, North Asia, Middle East, Australia,
New Zealand and USA.

Maurice Walsh Pty Ltd (1977 - 1979)

Perth, Australia

Senior Accountant

Retailing

Hendry Rae and Court (1975 - 1977)

Chartered Accountants

Perth, Western Australia

Accounting Manager

Touche Ross and Co (1973 - 1975)

Chartered Accountants

Kuala Lumpur, Malaysia

Accounting Manager

Touche Ross and Co (1964 - 1973)

Chartered Accountants

Perth, Western Australia

Accounting Supervisor

Community Positions.

Cocos (Keeling) Islands Shire Council

President (May 2003 to October 2007)

Councillor (May 2003 to October 2007)

Finance Committee (May 2003 to October 2007)

President (May 2001 - 2003)

Councillor (May 1999 - 2003)

Chairman of Finance Committee (May 1999 to 2003)

President (1993 and 1994)

**Cocos (Keeling) Islands Economic Development
Association**

President (December 2002 –October 2007)

Cocos (Keeling) Islands Muslim Small Business Association .

President (2002 to present)

President (1998 to 2002)

The Cocos (Keeling) Islands Economic Development and Training Committee .

Committee member (1989 - 1994)

Territory Law Reform Committee

Committee member (1990 - 1992)

Submissions

Commonwealth Grants Commission

WA State Grants Commission

Legal regime in the Indian Ocean Territories

Tourism in the Cocos (Keeling) Islands

Freight Management in the Cocos (Keeling) Islands

Economic Development in the Cocos (Keeling) Islands