



**PHOSPHATE RESOURCES**  
LIMITED

Submission No. 3

## JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES

This paper has been prepared by Phosphate Resources Limited (the Company) for the Joint Standing Committee on the National Capital and External Territories.

The Company mines phosphate on Christmas Island. It is a public unlisted company that has approximately two hundred employees and contractors on the island.

This submission canvases some of the key issues raised in the Joint Standing Committee's 2010 report into the changing economic environment in the Indian Ocean Territories. In that report the Committee examined the steps that needed to be taken to broaden and strengthen Christmas Island's economic base.

This submission seeks to encourage the Committee to make the following recommendations, namely-

- That Executive Government develop, endorse and promote a vision for the Christmas Island that provides guidance to potential investors and government agencies on the nature of the economic base the Government wishes to see developed on the Island;
- That Executive Government endorse in principle the thrust of the Crown Land Management Plan and the areas set aside in that plan for community, industrial or other development;
- That Executive Government support in principle the opening/reopening of the Christmas Island Casino;
- The Department of Regional Australia commission an independent economic analysis to assess the prospects of expanding the tourism industry on Christmas Island, having regard to the opportunities and challenges faced by the tourism industry on other comparable (or relatively comparable) islands;
- The Department of Sustainability, Environment, Water, Population and Communities assess and publish the costs of implementing the Government endorsed recommendations of the Christmas Island Expert Working Group (the Beeton Expert Working Group).

PERTH  
12 Lyall St, South Perth, WA  
PO Box 1194, South Perth  
Western Australia 6951  
P +61 8 9474 6811  
F +61 8 9474 6877  
E [info@cirp.com](mailto:info@cirp.com)

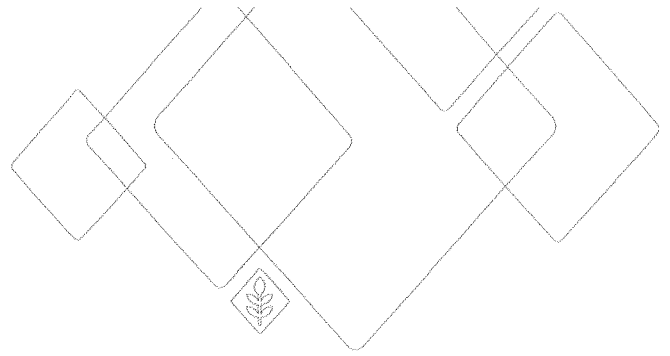
CHRISTMAS ISLAND  
PO Box 104  
Christmas Island  
Indian Ocean 6793  
P +61 8 9164 8400  
F +61 8 9164 8404  
E [info@cirp.com.au](mailto:info@cirp.com.au)

SINGAPORE  
8 Liang Seah Street  
#02-06 Liang Seah Court  
Singapore 189029  
P +65 6332 0961  
F +65 6332 0962  
E [info@cirp.com](mailto:info@cirp.com)

MALAYSIA  
209 Block A, Kelana Business Centre  
97 Jalan SS7/2, Kelana Jaya, 47301  
Petaling Jaya, Selangor, Malaysia  
P +60 3 7880 4911  
F +60 3 7880 5877  
E [info@cirp.com](mailto:info@cirp.com)

[www.cirp.com](http://www.cirp.com)

Phosphate Resources Limited ABN 77 009 396 543  
trading as Christmas Island Phosphates



### **Executive Government Vision for Christmas Island**

The Company is of the view that Executive Government needs to develop a vision for the future development of the Island if any real progress is to be made on broadening and strengthening its economic base.

This needs to be done by Executive Government – Cabinet – rather than an individual minister or government department.

The Company takes this view because-

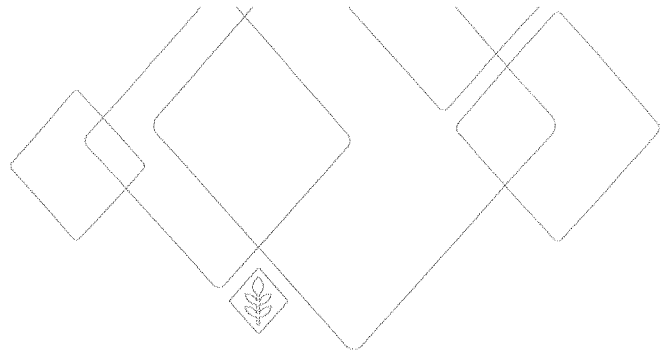
- There is no coherent overarching ‘Government’ view on the future direction of the Island, with conflicting initiatives being taken within government and by different government departments;
- The local community has the right to know what the Government intends to do to strengthen and broaden the Island’s economic base;
- The businesses community and potential investors need to understand if an investment proposal accords with the type of development the Government supports.

The Company has witnessed an inability or unwillingness within government to arrive at a common view about the appropriate economic base for the island. Individual government departments pursue policy objectives that are not shared or endorsed by other government agencies. There appears to be no prospect of a coherent and integrated ‘Government’ vision for the island being developed or approved unless it is done by Executive Government.

In making this observation, no criticism of the departments or their officers is implied. The simple fact is that each department has policy aspirations and legislative obligations that cause it to pursue courses of action that may conflict with the policy directions of other agencies.

One of the side effects of this policy conflict is that those dealing with government are unable to obtain a clear understanding of the “government” policy objectives. “Government” policy objectives are perceived as inconsistent, confusing and far too difficult to navigate. For potential investors, this poses an unacceptable risk and therefore operates against rational economic investment and development.

One example demonstrates this point quite vividly. It is not the only example. This example deals with the very question that exercised this Committee’s attention in its previous inquiry – namely the future economic development of the island.



It is pertinent to commence our examination of this point by reviewing this Committee's report into the changing economic environment in the Indian Ocean Territories – a report delivered in March 2010.

In that report the Committee examined the impediments to growing the island's economic base and made a series of findings and recommendations concerning the actions that needed to be taken to foster investment and business opportunities.

In its report the Committee noted some of the impediments to investment included a limited strategic direction for the Island and no land release or development plans. (paragraph 3.87)

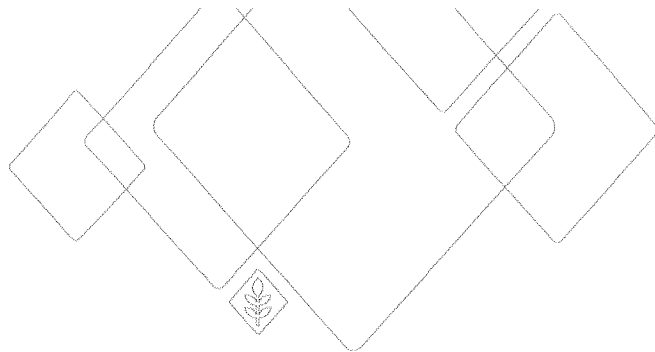
The Committee noted the Christmas Island Chamber of Commerce (CICC) suggested the absence of a land planning scheme – (limited amount of land has been made available for commercial development) is a challenge facing businesses on Christmas Island (paragraph 3.88) and that the absence of a land use strategy acts as a disincentive for commercial development on Christmas Island. (paragraph 4.141)

The Committee noted the absence of a land use strategy or plan had been highlighted as a significant hindrance to business investment and development for both Christmas Island and the Cocos (Keeling) Islands (paragraph 4.140) and that the Christmas Island Tourism Association had also suggested a land planning strategy is needed for Christmas Island to assist in attracting and informing investment. (paragraph 4.142)

The Committee went on to find that-

- Potential investors have raised concerns about their dealings with various levels of Indian Ocean Territories (IOTs) bureaucracy in regard to attempting to establish business or develop infrastructure. (point 3.198)
- Evidence received demonstrates there is moderate investor interest in the IOTs, but that high levels of bureaucracy at the local level are acting as a deterrent to further economic development. (point 3.199)
- A significant amount of investment and the potential for creating opportunities for economic development through diversification may be lost if potential investors lose interest as a result of overly bureaucratic processes or an unresponsiveness from Government officials. (point 3.200)

The Committee went on to record that it received information on a number of cases where development was either hindered or halted because of land policy related



issues – issues such as those relating to heritage, environmental or general approvals. The Committee then expressed the view that **“these issues require resolution and a concerted approach is needed to assist with encouraging investment from commercial development.”** (paragraph 4.166)

The Committee’s report suggests the Committee (as then constituted) accepted there were significant land policy issues that needed to be dealt with in order to encourage business investment on the Island. The Company agrees with that finding.

The Committee then turned its attention to the Crown Land Management Plan that had been developed for the Island some six months earlier.

The Committee found that the Crown Land Management Plan (CLMP) is designed to inform future planning decisions by assessing the conservation, economic, cultural and social values of Crown land. The committee expressed the view that the CLMP is an important plan for attracting investment and assisting economic development in the IOTs and should include a land release and development strategy arrived at through continuing community consultation. (paragraph 4.167)

The Committee’s report suggests the Committee invested considerable faith in the Crown Land Management Plan being able to deal with the sense of frustration and confusion with land planning and development issues confronting local businesses and potential investors.

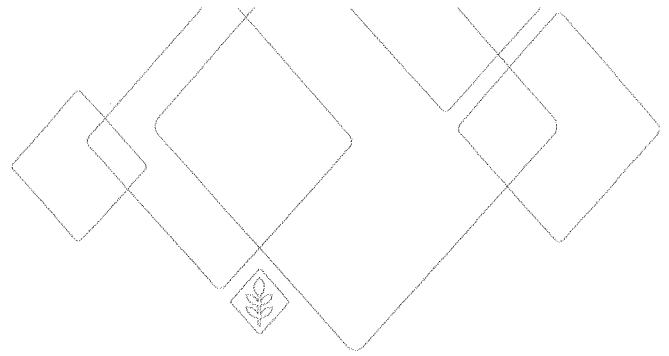
Given the reliance placed by the Committee on the Crown Land Management Plan, it is instructive to examine whether other “government” initiatives taken since that Plan was developed conflict, or potentially conflict, with what that Plan attempts to achieve.

The Report for Crown Land Management Plan for the Indian Ocean Territories - Christmas Island was delivered to the Australian Government in September 2009.

The report explained its main objective was to assess Crown land on the Indian Ocean Territories (IOT) and enable informed decisions to be made on its most suitable future uses which will lead to the overall better management of Crown land.

The CLMP covered all Crown land: unallocated Crown land, leased Crown land including mining and commercial, vested land, reserved land and Crown land under a management order. (Paragraph 1.2 Purpose/Objectives)

The report noted that-



- The project (the CLMP) consisted of an **initial assessment of Crown land** in the IOT which has been undertaken by **drawing on readily available information**, mostly from resources provided by AGD and from DPI, and
- The identified Crown land was **assessed for conservation, economic, cultural and social values**. This assessment provided **the basis for a plan of management**, which includes recommendations on the appropriate future uses of land, land development priorities (i.e. short term, medium term, long term), and management options for those lands.

It will be observed that the Report did not seek to provide a firm set of plans for the future development of Crown Land, but rather “**an initial assessment**” of Crown Land as the basis for a plan of management. In essence, what the Crown Land Management Plan sought to do was to set out a range of recommended actions and land developments that should be considered in greater depth.

The report outlined in Chapter 6 the desirable future uses of crown land. It observed-

The suitability of Crown land on Christmas Island will be dictated by not only the capability of the land **but also the strategic directions for the Island as a whole**. (our emphasis) Key precinct areas are outlined below and represent the most desirable future land uses that are suitable for these areas. A map of the Island indicating the most suitable future land uses in line with these strategic directions can be found at **Appendix H**.

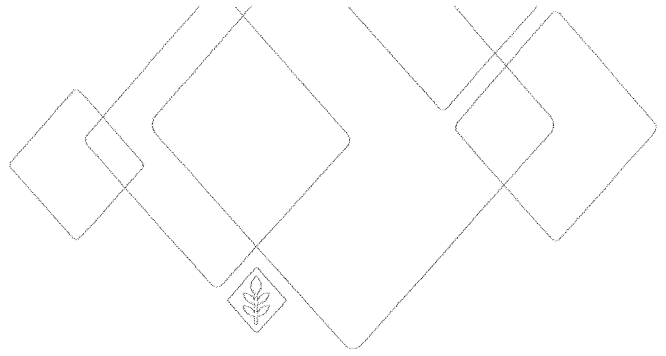
The development of the Crown Land Management Plan was based on four key environmental considerations - quote

#### **4.1.3 Environmental Considerations**

The audit of Crown land on Christmas Island revealed four key environmental considerations that have to be taken into account for any future development. These are Priority 1 (P1) vegetation, Priority 2 (P2) vegetation, Ramsar sites and other matters of natural environmental significance (NES).

Under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), actions that have, or are likely to have, a significant impact on a matter of NES require approval from the Australian Government Minister for the Environment, Heritage and the Arts (the Minister). The Minister will decide whether assessment and approval is required under the EPBC Act.

At time of preparation of this plan, matters of NES relevant to Christmas Island ... include ... actions proposed on, or will affect Commonwealth land and the environment.



These statutory protection measures will limit the capability of any land parcel they are found on. Whilst development is not completely ruled out in these areas, it is far more constrained and therefore its capability reduced.

The report makes it clear that Crown Land available for development is constrained by the Environmental Protection and Biodiversity Conservation Act and, importantly, that the Minister for the Environment has the discretion to approve certain actions (developments).

So – while the Crown Land Management Plan indicated the areas of land that should be set aside for certain developments, there is no guarantee that those developments will in fact receive environmental approval. The discretion to approve developments rests with the Minister for the Environment.

While this situation creates a level of uncertainty for potential investors, it nevertheless leaves it up to the Minister to determine if a proposed development should or should not be approved. In assessing development proposals, the Minister is required to give consideration to the environment impact of such proposals as well as the economic and social benefits that may be derived from them.

So – while the Crown Land Management Plan cannot “approve” areas of land for certain purposes, it can and has earmarked areas of land for specific developments, subject to the approval of the Minister for the Environment.

The key issue here is that the approval to undertake a development ultimately rests with the Minister and the Minister in exercising that discretion takes into account environmental, economic and social considerations.

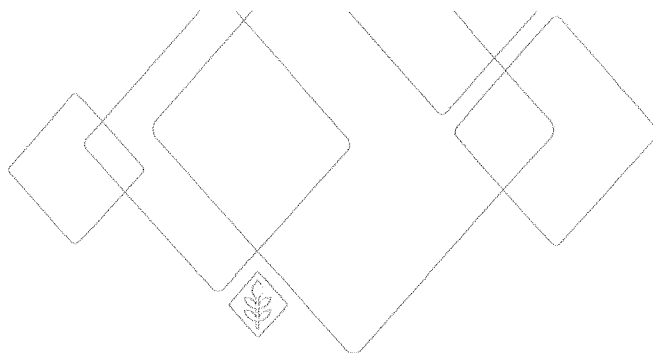
In essence then – the Crown Land Management Plan is founded on an understanding that the Minister **may** approve developments of the nature contemplated by the Plan.

The Crown Land Management Plan was an initiative of the Department of Regional Australia – the Department charged with fostering the development of the island’s economic base.

Since the publication of the Crown Land Management Plan the Department of Sustainability, Environment, Water, Population and Communities has pursued the development of yet another “plan” for the island – being the Island Wide Recovery Plan.

The development of this second plan has the capacity to make the Crown Land Management Plan impossible to implement.

Recovery plans are formal documents under the Environment Protection and Biodiversity Conservation Act and once endorsed, impose restrictions on the Minister for the Environment and all government agencies.



Recovery plans, once endorsed by the Minister, impose restrictions on the Minister's discretion to approve actions (developments). The Act imposes an obligation on the Minister and all government agencies **to not act inconsistently with the recovery plan**. Sections 139 and 268 of the Act make this abundantly clear.

**139 Requirements for decisions about threatened species and endangered communities**

- (1) In deciding whether or not to approve for the purposes of a subsection of section 18 or section 18A the taking of an action, and what conditions to attach to such an approval, the **Minister must not act inconsistently with:**
  - (a) Australia's obligations under:
  - (b) **a recovery plan** or threat abatement plan.
- (2) If:
  - (a) the Minister is considering whether to approve, for the purposes of a subsection of section 18 or section 18A, the taking of an action; and
  - (b) the action has or will have, or is likely to have, a significant impact on a particular listed threatened species or a particular listed threatened ecological community;

the Minister must, in deciding whether to so approve the taking of the action, have regard to any approved conservation advice for the species or community.

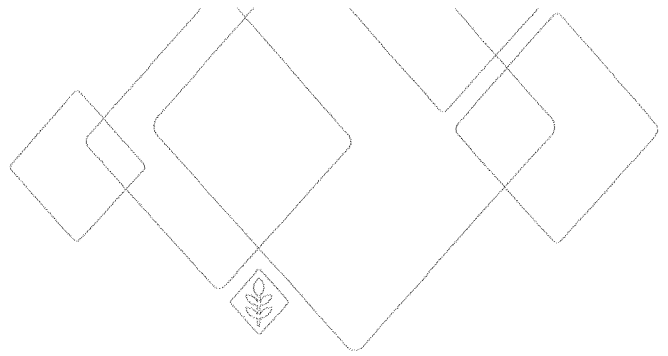
**268 Compliance with recovery plans and threat abatement plans**

A Commonwealth agency **must not take any action that contravenes a recovery plan** or a threat abatement plan.

What these sections of the Act mean is that the Minister cannot approve a development if it conflicts with the recovery plan.

This is not a subtle change. Whereas at the present time the Minister can exercise a discretion over whether a development is approved or not, once a recovery plan comes into force, that discretion is removed and any development perceived as being in conflict with it cannot be approved. The Ministerial discretion to approve a development is removed if that development conflicts with the recovery plan. It means the economic and social considerations relating to that development are not considered – the only thing that is relevant is whether the proposed development conflicts with the recovery plan.

At the present time the Department has prepared a draft recovery plan that has been made available to a small on-island working group. The company is a member of that group and has promoted a number of changes that would minimise the conflict between the Crown Land Management Plan and the recovery plan. It is not known if those changes will be accepted by the Department or the Minister.



The final wording of the recovery plan will determine whether the Crown Land Management Plan is capable of being implemented. There is certainly a risk that the recovery plan will prevent the island developing a sound economic base based on the assumptions in the CLMP.

What this example shows is that the actions of one department can have a profound effect on the island as a whole and on other government agencies. And the difficulty with all of that is that each department takes decisions in isolation.

The Company's view is that in the absence of an overarching "government" policy for Christmas Island, individual departments and agencies will continue to pursue their own agenda without regard to the impact that might have on the future development of the Island.

In the absence of a clear vision for the island from Executive Government, we foresee other sectional interests of different government agencies continuing to frustrate the rational development of the island. There has to be, in our view, one coherent "government" vision for the island and that is why we urge the Committee to adopt the following recommendation-

- That Executive Government develop, endorse and promote a vision for the Christmas Island that provides guidance to potential investors and government agencies on the nature of the economic base the Government wishes to see developed on the Island.

### **Crown Land Management Plan**

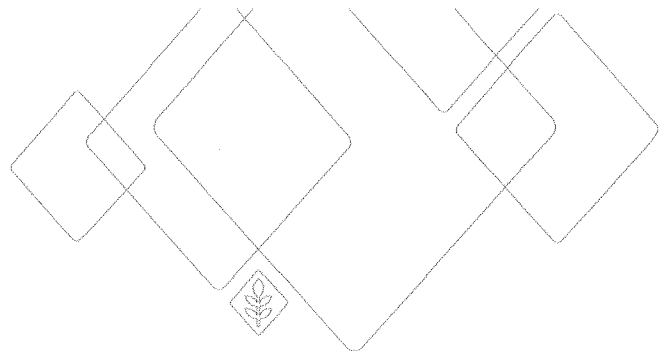
The Crown Land Management Plan Report for the Indian Ocean Territories - Christmas Island made it clear that the "suitability of Crown land on Christmas Island will be dictated by not only the capability of the land **but also the strategic directions for the Island as a whole.**" (Chapter 6)

In effect the report made the obvious point that the land planning strategy will be influenced by the Government's strategic directions for the island.

In this submission the point has already been made that Government as a whole does not have a strategic or coherent direction for the island and has urged the Committee to recommend that Executive Government develop, endorse and promote a vision for the island.

The Crown Land Management Plan, to some extent, promotes a vision for the island based on a range of proposed land uses. What is not known is whether the Government supports the direction outlined in that plan.





If the Crown Land Management Plan advocates a course of development that is in keeping with the Government's vision for the island, then it is prudent for government to inform the wider community that that is the case. Having that information broadly available should, to a large extent, assist investors target investment opportunities that are broadly in line with government aspirations. Equally, investors that elect to pursue investment opportunities that do not enjoy in principle government backing will know from the outset the approval risks with such projects.

In advocating the Government support in principle the Crown Land Management Plan, it is not suggested that the Government "approve" all the land uses recommended by the Plan. The normal approval processes will still have to be worked through. However, potential developers and government departments will know if proposed developments accord or conflict with Government objectives.

What the Company proposes is not all that dissimilar from the approach taken by this Committee in its 2010 report. It recommended-

The committee recommends that the Shire of Christmas Island and the Shire of Cocos Island (Keeling) Islands in consultation with the Attorney General's Department, draft and implement a land release and development plan to attract investment and stimulate the construction industries of the Indian Ocean Territories. (Recommendation 17)

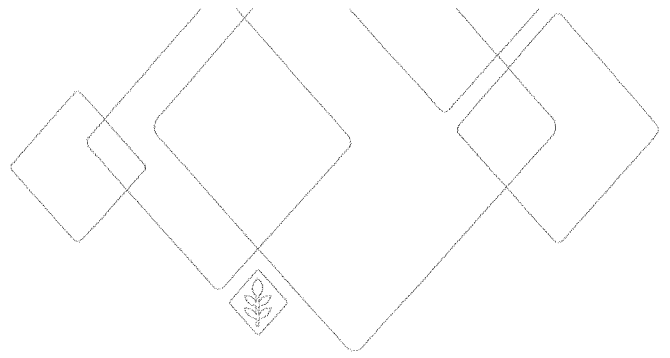
The Government responded to the Committee's recommendation on 7 November 2011. In that response the Government advised that-

The Department of Regional Australia, Regional Development and Local Government has completed a Crown Land Management Plan Report, which will be used to guide land management decisions.

Of course the intended use of the Crown Land Management Plan as a guide does not meet the Committee's recommendation that a land release and development plan be drafted and implemented and certainly does not give any indication as to whether the Government supports in principle the recommendations and land allocations in the Plan. In short, the imprecision and vagaries of land use planning and development remain and will continue to thwart efforts to attract investment unless Government makes it clear whether it supports or otherwise the Crown Land Management Plan.

It is the Company's view that if serious attempts are to be made to attract investment, then it is critical that potential investors know what land is potentially available for development and what type of developments the Government broadly supports.

Accordingly, it is recommended-



- That Executive Government endorse in principle the thrust of the Crown Land Management Plan and the areas set aside in that plan for community, industrial or other development.

### **Christmas Island Casino**

In its 2010 report the Committee made reference to submissions that had been made on the idea of reopening the Christmas Island Casino.

4.37 Another suggestion to improve tourism was to reopen the Christmas Island casino. However, Christmas Island phosphates (CIP) stated that Singapore is receiving between \$10 and \$12 Billion investment to build some of the most advanced casinos in the world. Further, CIP was unsure how such a large investment so close to Christmas Island would impact on tourism to Christmas Island.

It is not known how successful the reopened casino might be and there is little point any potential operator undertaking the requisite feasibility studies if the government is unwilling to grant a licence.

The Company's view is that it would be prudent for government to make an in principle decision about allowing the casino to reopen. An in principle decision will enable potential operators to assess the prospects of success and provide the government with whatever information is required to obtain a licence. An in principle decision supporting the reopening of the casino could offset expected falls in immigration personnel as the offshore processing of refugees comes into effect.

Conversely, if government is not minded to approve the reopening of the casino, a decision to that effect should stop the conjecture on the island about this possibility being the saviour of the island's economic base.

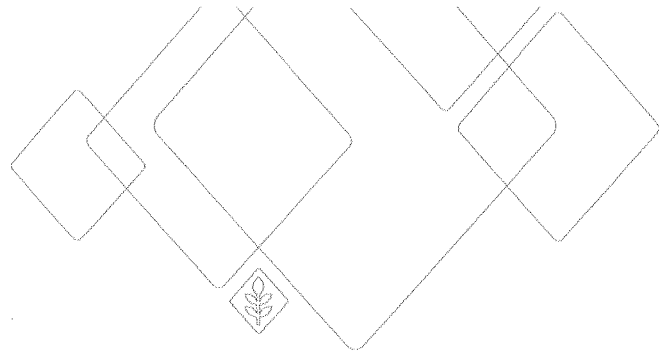
The Company recommends-

- That Executive Government support in principle the opening/reopening of the Christmas Island Casino.

### **Christmas Island Tourism Potential**

The Committee canvassed the prospects of expanding the tourism industry in its 2010 report. It noted that-

4.22 The IOTs tourism industry is still in its early stages of development. Tourism is the preferred industry for further development in the IOTs because it is considered to offer the 'greatest potential for economic growth' and is expected to have a positive flow-on effect for local business development.



4.24 Tourism on Christmas Island and the Cocos (Keeling) Islands is lagging in respect to the other Indian Ocean communities of Andaman Islands, the Maldives, Seychelles, Mauritius and Reunion Island.

The Committee concluded that-

4.75 Potential new growth industries including tourism and ecotourism have been identified by various Indian Ocean Territories' (IOTs) organisations and individuals as having the potential to be further developed and provide positive returns in a relatively short timeframe. In addition, it is expected tourism has the potential to spur the growth of complementary industries and assist in diversifying the IOTs economies. Economic diversification could assist the IOTs economies to become self sufficient and lower the reliance on Government services.

A great deal of reliance has been placed on the development of the tourism industry to sustain the Christmas Island economy over the medium to long term.

A very preliminary investigation carried out by the Company suggests that it is no easy task to grow the tourism industry on remote small islands which, by the very nature of their isolation, are expensive compared to easier to reach destinations. The Committee has noted the higher living costs on the island in its earlier report.

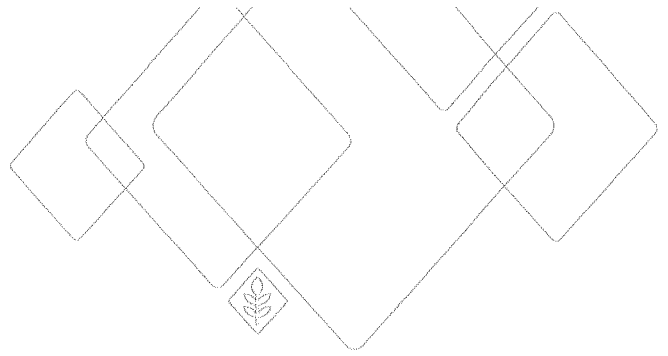
Additionally, it also appears that even vibrant tourism industries on other islands do not support a large permanent population.

In this respect, different views have been expressed about the optimum size of the tourism industry on Christmas Island. The Committee canvassed that point in its earlier report-

4.26 Understanding the impacts that a vibrant tourism industry would impose on the natural environment is seen as vital to future tourism planning. In regard to ecotourism, the degradation on the natural environment of an increased tourism industry is of concern. It could be argued that increasing tourism or creating a market for mass volume tourism could in time deteriorate natural resources and so lessen the overall tourist experience.

4.34 The Shire of Christmas Island stated that it believes Christmas Island's tourism sector needs both mass volume tourism and ecotourism. The Shire of Christmas Island stated:

Some people in the tourism industry argue that ecotourism is the future; that we do not want volume tourism. I argue that we need both. The park represents a wonderful natural resource which, if it is kept intact, will be a source of ecotourism revenue forever, so it has very important economic value.



The Committee expressed the view that the environment could be negatively affected if mass tourism is encouraged.

4.78 It can be argued that if the environmental value of the IOTs is diminished through mass volume tourism, it is likely the IOTs attractiveness as an ecotourism destination will diminish. The committee, while supporting measures to develop the tourism industry, believes care should be taken to implement development initiatives which have the dual purpose of stimulating economic growth and also preserving the IOTs natural environment.

It is not known if government supports the development of what is termed mass tourism or the growth of the industry to a certain level. This is a key public policy question that remains unanswered. Clearly any limits that might be imposed on the development of the industry will in turn have an economic and employment impact.

Leaving that question to one side for the moment, it is perhaps prudent in the first instance for government to commission an independent report on the tourism potential of the island having regard to like remote islands. Such an assessment should enable government to arrive at view on the real potential develop the industry and what contribution it ultimately may be capable making to the island's economic base.

The Company therefore recommends-

- The Department of Regional Australia commission an independent economic analysis to assess the prospects of expanding the tourism industry on Christmas Island, having regard to the opportunities and challenges faced by the tourism industry on other comparable (or relatively comparable) islands.

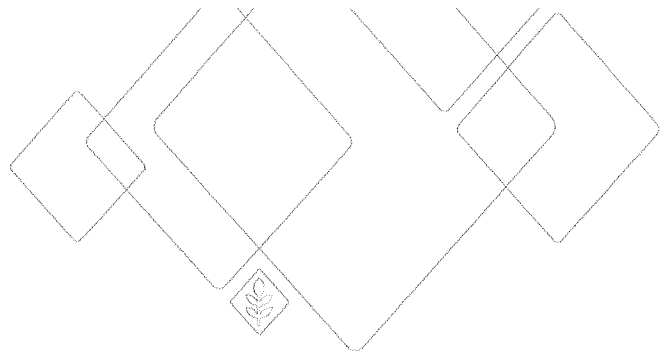
#### **Christmas Island Expert Working Group**

The former Minister for the Environment commissioned an Expert Working Group(EWG) to examine the state of the environment on Christmas Island. The EWG, headed by Associate Professor Bob Beeton, provided its final report to the Minister on 1 April 2010.

The EWG made a number of significant findings and recommendations, including-

... previous inquiries characteristically attempted to balance mining and a specific conservation issue – the conservation of the Abbotts Booby – and resulted in the creation of the Christmas Island National Park and enhanced rehabilitation after mining. **Current problems arise from the invasive species established on the island as a whole** (page 8)

The major difference in focus between previous reviews and this one is that this report seeks to provide a comprehensive review by independent experts of all



available information and to address a wide brief that focuses on the conservation of all the island's unique values. (page 8)

... the island is currently witnessing further rapid declines in other important species (page 9)

Christmas Island is also undergoing dramatic losses of the island's endemic red crab. The Red Crab is ..... the pivot of the island ecology. We warn a business as usual approach in future will mean that management will fail and the extraordinary national asset that is Christmas Island's biodiversity will be replaced by a combination of many introduced and a few resilient native species. (page 9)

This observation reiterates **our principle finding that the conservation of biodiversity on Christmas Island (or any other island) pivots around the prevention of introductions of non-indigenous species and the control and eradication of existing introduced species** (page 11)

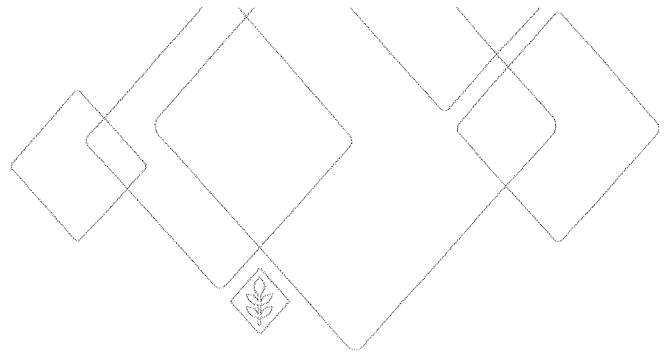
A complete reading of the report makes it abundantly clear the EWG arrived at the view that the major environmental challenge facing the island is invasive species. Unless action is taken to eradicate existing evasive species and prevent new one establishing, then the island's environmental values remain at considerable risk.

This finding requires a more complex approach to environmental management. Whereas previously the cessation of mining was seen as a panacea for environmental preservation, this has clearly been debunked by the EWG. The cessation of mining tomorrow will not preserve the island's endemic species as mistakenly claimed by some. A more sophisticated and comprehensive programme of invasive species eradication will help preserve the environmental values of the Island.

This Committee, in its 2010 report, acknowledged the obviously link between environmental preservation and eco-tourism. The EWG reinforced this view-

We warn that a 'business as usual' approach in future will mean that management will fail and the extraordinary national asset that is Christmas Island's biodiversity will be replaced by a combination of many introduced and a few resilient native species. That outcome would be failure in biodiversity conservation and would compromise the potentially secure economic future of the island as a tourist venue. (page 9)

The question for this Committee and indeed the Government is whether it is possible or feasible to secure the financial resources needed to implement the EWG recommendations and therefore provide the best chance of preserving the environmental integrity of the island. The answer to that question involves gaining an understanding of the likely costs of implementing the government endorsed recommendations and then assessing whether is it possible to raise the requisite funds.



Accordingly, the Company recommends the Committee take the first step by recommending-

- The Department of Sustainability, Environment, Water, Population and Communities assess and publish the costs of implementing the Government endorsed recommendations of the Christmas Island Expert Working Group (the Beeton Expert Working Group).

24 October 2012