

Introduction

Governance has been and will always remain a contentious issue in the Indian Ocean Territories until the people who live here can effectively participate in the political processes that affect their livelihood.¹

Substantive change is possible, including more effective governance arrangements, but only if the Islands' history is understood, the situation of residents acknowledged and a commitment to comprehensive action in the community's interest given.²

- 1.1 In recent years, the Joint Standing Committee on the National Capital and External Territories has taken a close interest in governance arrangements in Australia's external territories. In December 2003³ and November 2005,⁴ the Committee presented reports making far reaching recommendations concerning governance arrangements on Norfolk Island. The Committee is pleased to note that the Australian Government is currently acting upon those recommendations. During the course of its inquiries into various matters, the Committee's attention was drawn to the need for a broad

1 Christmas Island Chamber of Commerce, Submission no. 4, p. 8.

2 Shire of Christmas Island, Submission no. 10, p. i.

3 Joint Standing Committee on the National Capital and External Territories, *Quis custodiet ipsos custodes?: Inquiry into Governance on Norfolk Island*, Parliament of the Commonwealth of Australia, December 2003.

4 Joint Standing Committee on the National Capital and External Territories, *Norfolk Island Financial Sustainability: The Challenge – Sink or Swim*, Parliament of the Commonwealth of Australia, November 2005.

inquiry into governance arrangements in the Indian Ocean Territories (IOTs).

Background to the inquiry

- 1.2 The Committee has pursued an inquiry into current and future governance arrangements for the IOTs since May 2004 when it wrote to the then Minister for Territories proposing terms of reference for such an inquiry.
- 1.3 The Committee supplemented this request with a recommendation in its 2004 report, *Indian Ocean Territories: Review of the Annual Reports of the Department of Transport and Regional Services and the Department of the Environment and Heritage*. This recommendation was not supported by the Australian Government on the grounds that a clear policy was already in place for the future direction of the Territories. The policy, as determined by Cabinet in August 2000, is that:
- the Commonwealth's preferred long-term solution for the Territories is the incorporation of the IOTs into an existing State or Territory, with WA as the preferred option;
 - the Commonwealth should progressively withdraw from the direct delivery of State type services in the IOTs (as non-core functions);
 - legislative, administrative and institutional frameworks in the IOTs should be aligned with those of remote communities on the mainland.⁵
- 1.4 The Government holds the view that incorporation into Western Australia would:
- ...enable the Territories' communities to fully participate in state level democracy and enjoy the same rights and responsibilities as other Australians.⁶
- 1.5 However, it was the fact that this policy was announced with no apparent consultation with the residents of the IOTs which was of particular
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5 Department of Transport and Regional Services, 2003, Submission (no. 57) to Joint Standing Committee on the National Capital and External Territories Review of the Annual Reports of the Department of Transport and Regional Services and the Department of the Environment and Heritage, p. 11.

6 Government response to the Joint Standing Committee on the National Capital and External Territories Report: *Indian Ocean Territories: Review of the Annual Reports of the Department of Transport and Regional Services and the Department of the Environment and Heritage, August 2004*, presented 18 August 2005, p. 4.

concern to the Committee. Doubts have also been raised as to the prospect of the Government's policy of incorporation ever being achieved, given the sequence of events required under the Constitution to facilitate such a move. The Committee therefore endeavoured to address these and other issues relating to current and future governance arrangements for the IOTs.

- 1.6 The current inquiry was initiated on 11 May 2005, when the Senate passed a resolution asking the Committee to inquire into and report on current and future governance for the Indian Ocean Territories.
- 1.7 The inquiry was advertised in *The Australian* and *The West Australian* and on both Christmas and Cocos (Keeling) Islands in June 2005. The closing date for submissions was Friday 15 July 2005.
- 1.8 The Committee received a total of 18 submissions.
- 1.9 The Committee held a public hearing on Christmas Island on 30 January 2006 and on Cocos (Keeling) Islands on 1 February 2006. During its visit to the Territories, the Committee also took time to inspect various infrastructure on the Islands. The Committee is grateful to all those who assisted in facilitating these inspections.
- 1.10 A further public hearing was held in Perth on 22 February 2006 and a final hearing, with representatives from the Commonwealth Department of Transport and Regional Services (DOTARS), was conducted in Canberra on 27 March 2006.

Scope of the inquiry

- 1.11 This inquiry represents a broad ranging investigation into issues of current and future governance in the Indian Ocean Territories of Christmas Island and the Cocos (Keeling) Islands. It has focused upon the following issues:
 - accountability and transparency of decision-making in relation to the Indian Ocean Territories;
 - the role of the Shire of Christmas Island and the Shire of Cocos (Keeling) Islands;
 - aspirations of the residents of Christmas Island and Cocos (Keeling) Islands for more representative governance arrangements;

- the link between more effective governance and improved economic sustainability for the Indian Ocean Territories;
- the operation of Western Australian applied laws;
- community service delivery including the effectiveness of service delivery agreements with the Western Australian Government; and
- proposals for reform of governance arrangements.

- 1.12 In this report, the Committee addresses issues as they relate to Christmas and the Cocos (Keeling) Islands collectively rather than addressing each Territory separately. This is not to ignore the fact that both Territories have significant differences, both historically and culturally. Rather, it is a reflection of the fact that both territories have undergone a similar process of legal, political and administrative reform over the last two decades, and current Government policy suggests that the future of the two Territories will be considered together.
- 1.13 It is therefore important to note that the Committee encountered two somewhat different views between the two Territories on some of the issues falling under the inquiry's terms of reference. On Christmas Island, the desire for urgent reform was clearly evident, as was the considerable dissatisfaction with the Government's handling of affairs impacting on the island community. On Cocos (Keeling) Islands, the Shire Council appeared to be more content with many of the current arrangements, and it was suggested to the Committee that relations between the Cocos (Keeling) Islands Shire Council and the Australian Government had improved markedly in recent times.
- 1.14 The majority of evidence received by the inquiry was from Christmas Island, attributable to the voluminous submissions lodged by the Shire of Christmas Island and the Christmas Island Chamber of Commerce, both of which put forward strong views in favour of greater self-determination, as indicated by the title of the Shire's submission, 'Our future in our hands'.
- 1.15 A common theme from the shires of both Christmas and Cocos (Keeling) Islands was that neither was prepared to suggest a model of future governance for either territory. Instead, both shires emphasised the importance that any future model be determined by the island communities themselves.

Role of the Committee

- 1.16 The Parliament of Australia has a significant role to play in the affairs of the IOTs. It is the function of the Australian Parliament to participate in developing law and policy, to scrutinise government activity and public administration, and to inquire into matters of public interest on behalf of all Australians. A system of parliamentary committees facilitates the work of the Commonwealth Parliament.
- 1.17 As one of these committees, the Joint Standing Committee on the National Capital and External Territories is established by a Resolution of Appointment passed in both the House of Representatives and the Senate on 18 November 2004. The Committee is appointed to inquire into, and report to both Houses of Parliament, in an advisory role, on a range of matters.
- 1.18 Since 1993, the Committee has had a specific responsibility to examine Australia's external territories, including the IOTs. The Committee has produced ten reports in relation to the external territories:
- *Delivering the Goods*, February 1995 (Government Response, 1 December 1995);
 - *Island to Islands: Communications with Australia's External Territories*, March 1999 (Government Response, 1 March 2001);
 - *In the Pink or In the Red: Health Services on Norfolk Island*, July 2001;
 - *Risky Business: Inquiry into the tender process followed in the sale of the Christmas Island Casino and Resort*, September 2001 (Government Response, 6 February 2003);
 - *Norfolk Island Electoral Matters*, June 2002;
 - *Quis custodiet ipsos custodes?: Inquiry into Governance on Norfolk Island*, December 2003 (Government Response, 27 October 2005);
 - *Norfolk Island: Review of the Annual Reports of the Department of Transport and Regional Services and the Department of the Environment and Heritage*, July 2004 (Government Response, 23 June 2005);
 - *Indian Ocean Territories: Review of the Annual Reports of the Department of Transport and Regional Services and the Department of the Environment and Heritage*, August 2004 (Government Response, 18 August 2005);
 - *Antarctica: Australia's Pristine Frontier, Inquiry into the Adequacy of Funding for Australia's Antarctic Program*, June 2005; and

- *Norfolk Island Financial Sustainability: The Challenge – Sink or Swim*, November 2005.

1.19 It is the role of the Committee to gather and consider evidence, then produce recommendations based on that evidence for the consideration of the Australian Government. It is the role of the Australian Government to respond to and take action upon those recommendations.

Structure of the report

1.20 The report is divided into five chapters including this introduction.

1.21 Chapter two is a background chapter which provides a brief history of the IOTs and then looks at the developments which have shaped the way the Territories function today. Chapter three addresses two of the inquiry's terms of reference: the accountability and transparency of decision-making in relation to the IOTs; and the link between more effective governance and improved economic sustainability for the Territories.

1.22 Chapter four looks at the impact of the comprehensive law reform which extended a body of Commonwealth and Western Australian law to the IOTs. This chapter also examines the issue of community service delivery, including the effectiveness of service delivery arrangements between the Commonwealth and the State of Western Australia.

1.23 Finally, chapter five looks at the role of the shires of both Christmas Island and Cocos (Keeling) Islands and addresses the broader issue of future governance arrangements for the IOTs. In this chapter, the Committee considers the viability of the Australian Government's policy of eventual incorporation of the Territories into Western Australia and examines the aspirations of the Island residents for more representative governance arrangements.