

Ms Margaret Swieringa
Committee Secretary
Joint Standing Committee on the National Capital
and External Territories
Parliament House
CANBERRA ACT 2600



Dear Ms Swieringa

As requested by the Committee, please find attached a submission from the Department of Transport and Regional Services on the issues under consideration by the Committee. The submission provides a brief overview of the Territories and Local Government Division and a broad overview of the Territories of Norfolk Island, Christmas Island and the Cocos (Keeling) Islands.

Also provided are:

- A copy of the Kingston and Arthur's Vale Historic Area (KAVHA) Business Plan for 2000-2001;
- A package of papers relevant to the Commonwealth/Norfolk Island Land Initiative; and
- A copy of the Service Delivery Arrangements (SDA) Performance Reports 2000/2001 for the Indian Ocean Territories.

I understand other information (as per attached list) has been provided by officers at the request of the Secretariat. I trust this information is of assistance to the Committee and if we can be of further assistance the contact officer in the Division for this issue is Mr David Kennedy on 6274 8032.

Departmental officers will be pleased to provide information to the Committee during public hearings.

Yours sincerely



Mike Mrdak
First Assistant Secretary
Territories and Local Government Division

2 August 2002

PAPERS ALREADY PROVIDED

- Volumes 1,2A, 2B and 2C of the Kingston and Arthur's Vale Historic Area 1988 Conservation Management Plan (return of this document at the end of the Committee's review would be appreciated) (previously provided);
- A copy of the Memorandum of Understanding Relating to the Establishment of the Norfolk Island Kingston and Arthur's Vale Historic Area Management Board (previously provided);
- Pamphlets and other general background information on the Kingston and Arthur's Vale Historic Area (previously provided);

AUSTRALIA'S TERRITORIES

THE SELF-GOVERNING TERRITORIES

Australian Capital Territory

The ACT received self-government under the *Australian Capital Territory (Self-Government) Act 1988*. It has a Legislative Assembly headed by a Chief Minister, its own public service, and a range of local and State government powers. Under exceptional circumstances, the Governor-General may dissolve the Assembly, and the Commonwealth Parliament may over-ride Assembly legislation.

Northern Territory

The Northern Territory (Self-Government) Act 1978 provided for self-government. An Administrator, appointed by the Governor-General, represents Commonwealth interests in the Territory. The NT Government is headed by a Chief Minister and supported by the NT public service. The Legislative Assembly makes laws for the peace, order and good government of the Territory, but the Governor-General and the Administrator may request amendments to, and the Commonwealth Parliament may over-ride, NT laws.

Norfolk Island

As a self-governing Territory, Norfolk Island has a range of powers and functions under the *Norfolk Island Act 1979*, broadly comparable to those of the ACT and Northern Territory. Located in the Pacific Ocean 1600 kilometres north-east of Sydney, the Territory of Norfolk Island is eight kilometres long and five kilometres wide with a population of approximately 1700.

The residents include locally born Pitcairn descendants, New Zealanders and Australian mainlanders who are subject to a degree of self government through a Norfolk Island Legislative Assembly, similar to that of the ACT and Northern Territory. The main local industry is tourism with a strong historical flavour. Federally, Norfolk Island residents are entitled to vote in any mainland electorate with which they can establish a link.

THE NON SELF-GOVERNING TERRITORIES

These Territories are governed directly by the Commonwealth, which fulfils the role of both Commonwealth and State and is also responsible for creating Local Governments. The Government's role is operational and service delivery oriented.

Jervis Bay Territory

This non self-governing Territory covers a land area of 8,000 hectares and is located on the east coast of NSW 200 kilometres south of Sydney and twenty kilometres southeast of Nowra. The Territory has a population of around 700 residents and comprises the Booderee National Park, HMAS Creswell, Defence facilities, some Crown leases on the foreshore of Sussex Inlet, the Jervis Bay village and the Wreck Bay Aboriginal community. Services are currently provided by the Commonwealth, mostly through ACT Government agencies, and the Territory is subject to ACT laws. There is no local government and residents are represented politically only at Federal level through the ACT.

Indian Ocean Territories

Include the Territories of Christmas Island and the Cocos (Keeling) Islands and the residents are represented Federally through the Northern Territory seat of Lingiari. An Administrator, appointed by the Governor-General, represents Commonwealth interests in the Territory.

Christmas Island

Christmas Island is located in the Indian Ocean 380 kilometres south of Java and 2,600 kilometres north west of Perth. The nearest Australian mainland location is the Northwest Cape 1,550 kilometres to the east. The Territory is 135 square kilometres with an eighty kilometre coastline of almost continuous cliff up to 20 metres high.

The population is approximately 1400 comprising 70% of Chinese origin, 20% of European origin and 10% of Malay origin. The Territory has an elected Shire Council. Local industry includes phosphate mining by Phosphate Resources Ltd, and some tourism.

Cocos (Keeling) Islands

The Territory of Cocos (Keeling) Islands is made up of a group of 27 small Islands forming a horseshoe shaped atoll surrounded by coral reef. Only two of the Islands are populated, with some 520 Cocos Malays residing in the Kampong on Home Island and around 150 people residing on West Island. The Commonwealth, through the Island Administration and WA Government agencies, is responsible for the provision of all State and Commonwealth Government type services. The Territory has an elected Shire Council and a very small tourist industry.

Coral Sea Islands Territory

Located in the Pacific Ocean, this Territory is made up of the islands situated in a defined sea area of approximately 780,000km². The area extends from the outer edge of the Great Barrier Reef and includes Elizabeth and Middleton Reefs Marine National Nature Reserve about 150 km north of Lord Howe Island. The Territory is unpopulated except for four Bureau of Meteorology staff.

Territory of Ashmore and Cartier Islands

Located in the Timor Sea approximately 840 km west of Darwin, this unpopulated Territory consists of four islands; three islands in the Ashmore Reef National Nature Reserve and Cartier Island. It is an important feeding and breeding ground for a variety of marine wildlife. Under a Memorandum of Understanding (MOU) between the Indonesian and Australian Governments, traditional Indonesian fishing practices may be carried out in an area defined in the MOU.

GENERAL BACKGROUND

The external Territories provide a major extension of Australia's sovereign area and, as highlighted by the recent events surrounding illegal arrivals, they have strategic defence and regional significance.

While all Territories are integral to Australia, particular legislative and administrative arrangements apply in each place. Each Territory has different governance arrangements, is at a different stage of economic and political maturity and enjoys varying degrees of local autonomy. This ranges from: the ACT and the Northern

Territory with well established Parliaments and full participation in the Federal system; to the Indian Ocean Territories where the Commonwealth provides the legal and governance regime with this portfolio providing State Government, and even some local Government-type services and functions; to the Jervis Bay Territory which has an Aboriginal Community Council. The Norfolk Island Government has very wide ranging powers encompassing Local Government, State and even Commonwealth powers and responsibilities.

The idiosyncratic nature of the present governance arrangements in Australia's self-governing and non self-governing Territories creates a legal and administrative conundrum that is at times inefficient, impractical and costly. A key issue is the degree to which the desire by some in these very small communities for greater autonomy in managing some of their affairs is realisable given their very limited resources. It is important to ensure that the areas of Commonwealth and local responsibility are clearly articulated, along with the reciprocal nature of responsibilities.

The external Territories, like all of Australia's regions, are subject to the pressures of change on small communities, particularly the consequences of limited economic opportunities and market failure on the development of the small Territories communities. Mainland regional issues such as service delivery, under-employment and unemployment, a relatively limited and shrinking economic base and geographical isolation are compounded in the inhabited external Territories (Christmas Island, Cocos (Keeling) Islands and Norfolk Island). The development of the external Territories has been adversely affected by being treated as different and not regarded as regions of Australia.

A model of "normalisation" is being pursued for the Indian Ocean Territories and Jervis Bay Territory. This model includes progressive withdrawal by the Commonwealth from delivery of State and local government type services (non core functions) through arrangements with the States and alignment of legislative, administrative and institutional frameworks with Western Australia and ACT/NSW respectively. Additionally, we are seeking to ensure that all relevant Commonwealth legislation and programs apply to these Territories in their own right. While the majority of services for the Jervis Bay Territory are delivered through the ACT, this is often incompatible with the physical location of the Territory. The strategic direction has been to align them with services provided to similar "mainland" communities.

The current governance model for Norfolk Island poses a number of impediments to a consistent Commonwealth position. While a model of normalisation is being pursued, including alignment of internal self-government arrangements to a position akin to that of the ACT and Northern Territory local financial and administrative capacity and political instability retards progress.

There is hope for some diversification of the economy of Christmas Island with the development of the satellite launching facility, but Norfolk Island still depends far too heavily upon a very limited tourism market and the Cocos (Keeling) Islands have never found a major source of income to replace the copra industry, which collapsed in the 1970s. The Indian Ocean Territories depend heavily upon Commonwealth expenditure to sustain them and while Norfolk Island is required to be financially 'self-sufficient', critical services, including some health services, are below mainland standards and local infrastructure is in dire need of capital expenditure.

KEY ROLES AND RESPONSIBILITIES

The Department's Role

The Department has the following portfolio responsibilities for the Commonwealth's Territories:

- protect and enhance the national interest in the Territories;
- assess and provide policy advice on the development, implementation and evaluation of Commonwealth policies and programs as they affect Australia's Territories;
- develop legislative proposals for the development and maintenance of good governance in Australia's Territories;
- work with other agencies of the Commonwealth, other levels of government and the business sector to address impediments to, and advance economic development; and
- support good local governance, ensure delivery of State level services, progress alignment of appropriate conditions and standards for the Indian Ocean Territories and Jervis Bay Territory, and provide appropriate infrastructure.

The Department is responsible for:

- providing accurate and timely advice to the Minister, Government and stakeholders on the policy and program objectives for Christmas Island, Cocos (Keeling) Islands, Jervis Bay Territory & Norfolk Island;
- assessment and evaluation of Commonwealth policies and programs as they apply to the Territories;
- initiating Government policies to facilitate the effective application of Commonwealth programs in the Indian Ocean Territories, Jervis Bay and as appropriate Norfolk Island;
- providing advice to Government on options for the political status, legal regime and service delivery arrangements in the Territories;
- developing effective legislation to support Commonwealth policies and programs in the Territories;
- providing policy support for legislation to meet local needs and facilitate social and economic growth in the Territories;
- providing advice on the appropriate level of Government funding for the Territories in terms of advancing economic development and sustainability;
- facilitation of sustainable economic and business growth in the Territories and the establishment of accessible, transparent consultative processes for the private sector;
- management of the Government's micro economic reform agenda and divestment of non core activities through outsourcing and privatisation;
- ensuring an acceptable standard of Government services (Commonwealth, State and Local) in the Indian ocean Territories, Jervis Bay and as appropriate, Norfolk Island;
- facilitating an increase in the capacity of Local Governments to deliver an acceptable standard of local government services and providing an acceptable standard of public infrastructure in the Territories.

THE ADMINISTRATOR'S ROLE IN THE TERRITORIES

Norfolk Island

Section 5 of the *Norfolk Island Act 1979* provides that there shall be an Administrator of the Territory who shall administer the government of the Territory as a Territory under the authority of the Commonwealth.

The Administrator is appointed by the Governor General by Commission. The appointment also requires Cabinet endorsement. The Administrator resides in Government House on Norfolk Island.

The Administrator's responsibilities include:

- assent to (or otherwise return with recommended amendments) proposed laws passed by the Norfolk Island Assembly;
- to act in accordance with advice of the Norfolk Island Executive Council in relation to any matter in Schedule 2 of the Norfolk Island Act;
- to act only on the advice of the Executive Council in relation to Schedule 3 matters, unless he receives instructions from the Commonwealth portfolio Minister; and
- to reserve any non-schedule matters for the pleasure of the Governor-General.

The current Administrator, the Hon Tony Messner, was appointed in August 1997. His original appointment was extended for a further two years until August 2002 and recently extended until June 2003.

The remuneration and officer holder's supplements for the Administrator, as with the Northern Territory and Indian Ocean Territories Administrators, are determined by the Remuneration Tribunal.

Indian Ocean Territories

The provisions of the *Administration Ordinance* for each of the Territories allow for an Administrator to be appointed by the Governor-General by Commission and hold office during the Governor-General's pleasure. The Ordinances state that the Administrator shall administer the Territory on behalf of the Commonwealth and shall exercise all powers and perform all functions in accordance with any instructions given to him by the Minister.

The Administrator is responsible for law, order and good government of the Territories. The functions and authority of the Administrator include a wide range of specific powers assigned under the *Administration Ordinances*, or, since July 1992, delegated powers under applied Western Australian laws.

One Administrator is currently appointed for both Territories as they have similar legal and administrative regimes. The single appointment is more efficient and assists in the development and implementation of consistent policies for the two Territories. The Administrator is supported by an Official Secretary in each Territory and Administration staff.

Mr Bill Taylor was reappointed as Administrator of Christmas Island and Administrator of the Cocos (Keeling) Islands in 2002.

The Branch develops and maintains legal regimes for the non self-governing Territories.

It provides State and Local Government Services to Christmas Island, Cocos (Keeling) Islands and Jervis Bay Territory. The longer-term strategies are to:

- align State and Local Government Services in the Indian Ocean Territories to comparable Western Australian communities and Jervis Bay with comparable NSW communities;
- extend Commonwealth, State and Local Government legislation and programmes currently not provided to the Territories;
- exercise direct service provision arrangements by appropriate Commonwealth, State and Local Government agencies for services currently provided by the Department.

The Branch is reviewing current strategic asset management plans for Territories assets, analysing strategic asset management options in relation to the Department's asset holdings, and delivering a major capital works programme.

The Portfolio provides the key infrastructure assets for the communities in the Indian Ocean Territories including the airports, ports and housing. In addition, the Branch is supporting the establishment of the proposed Asia Pacific Space Centre satellite launching facility on Christmas Island and the construction of an immigration reception and processing centre on Christmas Island.

The Self-Governing Territories, Local Government and Natural Disaster Management Branch:

- provides policy advice and support to the Minister on Commonwealth responsibilities, priorities and interests in the Australian Territories of Norfolk Island, the ACT and the NT;
- administers community disaster recovery assistance, including the Federal Government's Regional Flood Mitigation Programme, to reduce the risk and damage caused by floods in regional, rural and outer metropolitan areas in Australia;
- administers the Natural Disaster Relief Arrangements (NDRA) providing, among other things, Commonwealth reimbursement to the States and Territories for part of what is spent on eligible natural disaster events;
- administers Commonwealth financial assistance grants to local government; and
- through the National Office of Local Government, provides policy advice and services aimed at improving the performance, financial capacity and participation of local government in Commonwealth priorities at the local level.

Review Secretariat: Council of Australian Governments Review of Natural Disaster Relief and Mitigation Arrangements

Heads of Government have agreed to a review of Commonwealth, State/Territory and Local Government arrangements to support disaster affected communities and advance disaster mitigation. The Secretary of the Department is chairman of the review and the Review Secretariat is providing leadership, undertaking consultations, and guiding the strategic direction of the review. Coordination across Commonwealth agencies and with States is also being undertaken.

The Administrator is required to:

- run the Island's Administrations;
- apply Australian Government Policy as an employer and in a social and community setting; and
- be the operational arm of the Minister and the Department.

Remuneration of Territory Administrators is determined by the Remuneration Tribunal and the Administration budgets are allocated and managed through the Department of Transport and Regional Services.

TERRITORIES AND LOCAL GOVERNMENT DIVISION

The Division has responsibility for managing Australia's national interests in our Territories, the administration of natural disaster management programs and providing advice and assistance aimed at developing and strengthening Local Government throughout Australia.

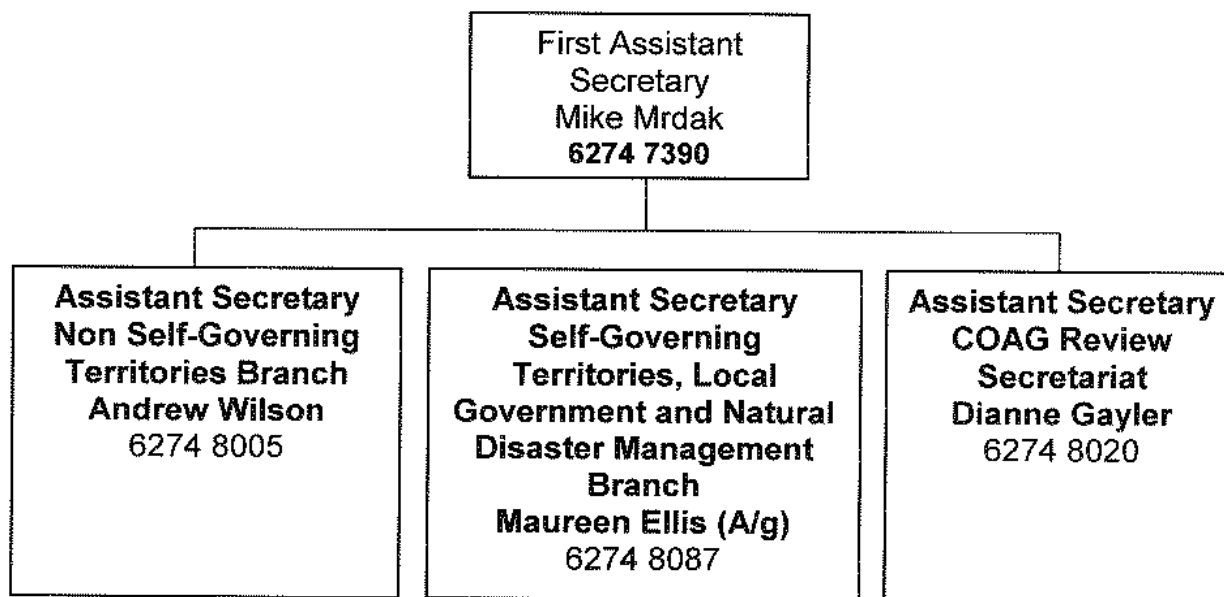
It is responsible for providing state and some local government-level services, and the associated legal regimes, to the communities of the non self-governing Territories of Christmas Island, Cocos (Keeling) Islands and Jervis Bay, as well as providing related policy and legal advice to the Minister. This policy role also encompasses the uninhabited non self-governing Territories of Ashmore and Cartier Islands and the Coral Sea Islands.

In respect of the self-governing Territories, the Division provides support to the office of the Norfolk Island Administrator, maintains the Commonwealth's interests in the Australian Capital Territory, the Northern Territory and Norfolk Island and provides strategic policy advice on those interests and the Commonwealth's interests in the ACT as the National Capital.

In its regional support role, the Division administers the Natural Disaster Relief Arrangements (NDRA); the Regional Flood Mitigation Programme; and flood/disaster relief and recovery activities which are undertaken in partnership with the States and Territories, and with local governments.

The Local Government area of the Division aims to improve Local Government performance and financial capacity; develop Local Government's contribution to national priorities; and to facilitate the exchange of knowledge and expertise to ensure the implementation of Commonwealth priorities at the local level.

STRUCTURE OF THE DIVISION:



The Non Self-Governing Territories Branch

Provides policy advice and Ministerial services in respect of Commonwealth responsibilities in the non self-governing Territories of Christmas Island, Cocos (Keeling) Islands and Jervis Bay.

NORFOLK ISLAND

DESCRIPTION

The Territory of Norfolk Island is situated in the Pacific Ocean approximately 1600 km north-east of Sydney, 890 km north-east of Lord Howe Island and 1100 km north-west of Auckland. It is about 8 km long and 5 km wide with a land area of 3720 hectares. Norfolk Island time is one and a half hours ahead of Australian Eastern Standard Time.

Norfolk Island enjoys an equable climate, with very little variation between day and night temperatures. Average maximum temperatures range from 25 degrees Celsius in February to 18 in July; average minimum temperatures range from 20 in February to 13 in July. The average rainfall is about 1400 mm per year.

The total ordinarily resident population of Norfolk Island was 2016 at the 2001 Census, with a permanent population of 1574 and 442 Temporary Entry Permit holders. Nearly half the permanent population is of Pitcairn descent. 82.5% of residents hold Australian citizenship and 14.1% hold New Zealand citizenship.

Norfolk Island is a conveniently situated Australian sovereign territory deep within Australia's sphere of influence in the South Pacific. The Territory is important to Australia's national interests and has obvious strategic significance in the national security and regional defence context. The Island has been used in the past as an aircraft staging point for operations in the South Pacific subject to airstrip limitations and has also shown utility for Australian Defence Force special operations. Coastwatch aircraft conducting surveillance of Australia's Exclusive Economic Zone (EEZ) also use the Island.

The Territory generates its own EEZ for Australia as well as significantly increasing Australia's sea bed jurisdiction, as defined under the United Nations Convention on Law of the Sea. These areas include fisheries and potential oil/mineral resources. Moreover, the rich convict history and heritage of the Island is an important part of Australia's national heritage and culture.

CONSTITUTIONAL ISSUES

The Territory of Norfolk Island is an integral part of the Commonwealth of Australia. This is the clear legal position, though it is sometimes disputed by elements on Norfolk Island. First discovered by Captain James Cook in 1774, Norfolk Island served as part of the penal settlement established in New South Wales on two occasions. In 1856 it became a separate settlement under the full power and authority of the Governor of New South Wales when the entire population of Pitcairn Island was transferred to Norfolk Island.

Norfolk Island was accepted by the Commonwealth as a Territory in 1913 and in 1979 was afforded a degree of internal self-government under the *Norfolk Island Act 1979*.

The Norfolk Island self-government model has had the unintended effect of giving some support to the concept that Norfolk Island is not an integral part of Australia. The non application of many of the laws of the Federal Parliament, separate customs, quarantine and immigration regimes and the exclusion of the Territory from

the normal revenue raising and sharing arrangements give added weight to the arguments that the Island is somehow not part of Australia.

The machinery of government arrangements and legal regime on the Island also contribute to these national and international misconceptions. Currently, Australian citizens are not automatically entitled to vote in Norfolk Island Legislative Assembly elections. Foreign citizens are entitled to be Assembly members and Ministers in the Government. [The Joint Standing Committee on the National Capital and External Territories is currently conducting an Inquiry into the electoral arrangements on Norfolk Island].

HISTORY

Norfolk Island has a rich history, commencing with its settlement as a convict outpost of Botany Bay in 1788. Discovered in 1774, the Island was uninhabited. In 1788, forty days after the arrival of the First Fleet at Sydney Cove, Norfolk Island was settled under the command of Lieutenant Philip Gidley King and up to 1,200 people lived on the Island during this first settlement period. In 1814 the Island was abandoned.

In 1825 the Island was reopened and served as a penal settlement for up to 2,000 convicts under a harsh and oppressive regime until 1855. In 1856 the descendants of the "HMS Bounty" mutineers, their Tahitian spouses and whalers, who were then residing on Pitcairn Island but who had outgrown the resources available there, were transferred to Norfolk Island.

Some 190 people were resettled to the Island and land grants were made to heads of families. Shortly afterwards, and again in 1863, some of the Pitcairn Islanders returned to their original home, but many remained on Norfolk and established a subsistence farming economy. The Governor of New South Wales retained responsibility for the Island until 1914 when it was formally transferred from the UK to the Commonwealth as a territory under Section 122 of the Constitution. It was administered directly by the Commonwealth through the Administrator until 1979 when a Legislative Assembly was established with a range of internal self-governing powers.

PITCAIRN HERITAGE

Descendants of the Pitcairn Islanders make up about 48 percent of the permanent resident population.

The Pitcairn descendants speak both English and a distinctive traditional language passed down from the Bounty mutineers and their Tahitian wives. Other aspects of the Pitcairn/Norfolk heritage are evident in the observance of celebrations such as Bounty Day and Thanksgiving Day. Bounty Day (or Anniversary Day) is a community celebration which commemorates the arrival of the Pitcairners on 8 June 1856. Most of the Pitcairners are descendants of the Bounty mutineers, led by Fletcher Christian, and their Tahitian wives who settled on Pitcairn Island in 1790. They were joined on Pitcairn by some other British settlers. In 1856 the Governor of New South Wales arranged for the Pitcairners to be transported to Norfolk Island which was being vacated by the second penal settlement.

Norfolk Island's adoption of Thanksgiving Day as a public holiday arose out of its association with American whaling ships. Norfolk Island is now the only place where Thanksgiving is celebrated outside the United States and its dependencies.

COMMUNITY DEMOGRAPHIC PROFILE

Norfolk Island today is a cosmopolitan society comprising a permanently resident community of over 1,500 people. A person born in Norfolk Island is, by birth, an Australian citizen under the *Citizenship Act 1948*, provided one of the parents is an Australian citizen or a permanent resident of Australia.

Norfolk's population is older than the Australian average with 30.3% of the community over 55. Approximately a third of the workforce is made up of itinerant mainlanders and New Zealanders employed primarily in the tourist industry for maximum periods of three years. Under the local immigration regime, they are obliged to leave the Island when they cease employment.

ECONOMY

Norfolk Island has strong links with the mainland for the provision of goods and services including transport, health and education.

Tourism forms the basis of the Island's economy, which is heavily influenced by external economic factors operating on the mainland and New Zealand. Up to 40,000 tourists visit the Territory each year. The recent failures of Flight West and Ansett have had a major adverse impact on the local economy and is posing some freight problems.

TAXATION

Australian income tax is not payable on income derived from within the Territory. Other Federal taxes do not apply. A range of local (indirect) taxes and imposts are levied by the Norfolk Island Government.

STRATEGIC DIRECTION

The Commonwealth Grants Commission, in its August 1997 report, indicated that the "do nothing" option for the Territory was not available. Without some fundamental changes in public sector financing, the Island will become a less sustainable economy, with the Territory Government unable to provide for the welfare and infrastructure necessary for its population.

"The Commonwealth has a responsibility to ensure that certain services are provided to Australians at appropriate levels and this is not happening on Norfolk. If the Norfolk Island Government were to do nothing to improve these services, it should expect the Commonwealth to reclaim responsibility for them and some revenue powers to pay for them. If the Norfolk Island Government were to do nothing to improve its administrative capacity and infrastructure, there would be a risk of the Island economy declining, of revenue capacity falling and levels of services deteriorating. The Commonwealth could then be forced to take responsibility for a wider range of service provision and revenue raising for the Island. The level of independence of Norfolk Island would thereby be reduced". (Commonwealth Grants Commission 1997 Report on Norfolk Island Chapter 10, page 218 para 43)

Already the standards of public health are at levels of concern, in part because the Norfolk Island Government has not implemented initiatives to raise revenue to meet minimum Australian standards. The recommendations put forward by the Joint Standing Committee as a result of the 1999/2000 Inquiry into Norfolk Island Health Services would go a long way towards addressing the shortfalls in local health services.

Unfortunately, the Committee's recommendations for the extension of Medicare to some groups of Norfolk Island visitors and residents and the extension of the *Aged Care Act* (Cwlth) are impractical under the current administrative and financial arrangements. Officers from the Department of Health and Aged Care will be visiting the Territory in August 2002 to discuss viable options relating to health care services on the Island. It is anticipated the Federal Government's response to the JSC Report will be finalised following these discussions between Commonwealth and Norfolk Island Administration officers.

The idiosyncratic nature of the governance arrangements for Norfolk Island in particular has also created a legal and administrative conundrum that is at times inefficient, time consuming and costly to the Commonwealth. While Norfolk Island has 'managed' since the implementation of self-government in 1979, the current arrangements are not ideal. The Department endorses the finding of the Commonwealth Grants Commission report in 1997 that the Norfolk Island machinery of Government requires review and there is dire need for the Norfolk Island Government to expand its revenue raising base to meet its responsibility to provide mainland standard services and infrastructure. Focus 2002, a current Norfolk Island Government initiative to examine a 'sustainable' Norfolk Island, is a positive step for the Territory and it is hoped, will assist with the development of a strategic plan for Norfolk Island.

INTER GOVERNMENTAL RELATIONS

While all external Territories are integral to Australia, successive Federal Governments have endorsed particular legislative or administrative arrangements for

the Territories which differ from those applying on the mainland. In the case of Norfolk Island, its current self-government arrangements are the result of a decision by the Federal Parliament and given effect by the *Norfolk Island Act 1979*. The arrangement included a Federal decision not to extend Australian taxation and social security benefits to the Island and for revenue necessary to sustain the Norfolk Island Government to be raised internally.

Under the Norfolk Island Act, the Federal Parliament devolved legislative and executive power to Norfolk Island, including the power to elect its own government, maintain its own administration and be responsible for raising its own revenue (with certain limitations). The 1979 Act also continued the arrangement whereby Commonwealth legislation generally does not extend to the Island unless expressed to do so. In consequence, the Norfolk Island Government has wide-ranging powers encompassing Local Government, State and some Commonwealth responsibilities.

Inter-Governmental Meetings: Inter-governmental meetings have been held every six months or so between the Commonwealth Minister responsible for Territories and the four Ministers of the Norfolk Island Government. Their aim was to overcome perceived difficulties in inter-governmental consultation and provide a decision-making forum. However, the most recent formal meeting (March 2001) achieved little for the significant effort expended and was notable for the lack of unanimity. The new Minister responsible for Territories, the Hon Wilson Tuckey MP has visited the Island on two occasions (the second at the invitation of the Norfolk Island Government) and held positive informal discussions with the Assembly.

Legislation assent process: The Norfolk Island Act gives the Commonwealth a power of veto over certain legislative proposals, generally those affecting "national interest". The Norfolk Island Government has often been opposed to Commonwealth involvement in its law making process and is critical of the delays inherent in the process. The Department has recently instituted a strategy to minimise delays where ever possible and is encouraging increased participation by the Norfolk Island Government in relevant Ministerial Councils to ensure early knowledge of Commonwealth legislation and initiatives that may impact on the Territory.

Concerns over 'capacity' and service provision: In 1997 the Commonwealth Grants Commission cast doubts on the Territory's administrative and financial capacity to deliver key services at the appropriate standard and raised issues of public accountability. Subsequent independent reports have expressed similar concerns (eg parliamentary reports on public health and on communications). The current Norfolk Island Government was in the main, elected on a platform of better relations with the Commonwealth. As a result, officers from the Commonwealth Treasury and the Department of Finance recently visited Norfolk Island for discussions with the Territory Administration to assist in progressing the Focus 2002 initiative. Visits from officers from the Department of Health and Aged care will be taking place in the near future and the current relationship between the Norfolk Island and Federal Governments is one of strong cooperation.

Need for infrastructure funding: Independent reports have noted the ongoing lack of investment and funding required to replace the Island's ageing infrastructure (communications, public health, airport, roads, waste disposal, etc). The Island Government has relied on Federal agencies and Federal grants to meet some of these obligations through programmes such as *Networking the Nation*. It is now seeking approval to borrow about \$4.5 million from the Commonwealth to fund the upgrading of the runways and pavements of the Norfolk Island Airport. This latest proposal raises again the question of the Norfolk Island Government's capacity to

repay loans of this magnitude. It is currently repaying a \$3.5 million Commonwealth loan for the "Cascade Cliff Safety Project".

Airline services: The failure of regional airline services has major implications for Norfolk Island's tourism-based economy. Ansett was scheduled to replace Flight West, which ceased services to Norfolk Island in June 2001. The only remaining link with the mainland is Norfolk Jet Express which has limited carrying capacity and is subject to some disruptions due to the use of the Air Nauru plane. Some services are also provided by Air New Zealand. This is a major area of vulnerability for the Territory.

World Heritage Listing of the Kingston and Arthur's Vale Historic Area: This has been an issue for the Environment Portfolio in the past but is not currently supported by the Norfolk Island community. In a 1998 referendum, 626 residents were opposed and 276 were in favour. Any move on this issue by Environment Australia must be progressed in consultation with this portfolio and the Norfolk Island Government.

GOVERNANCE AND LEGAL REGIME

Under the *Norfolk Island Act 1979* the Norfolk Island Government has a range of powers and functions broadly comparable with the ACT and NT (including some powers normally exercised by the Commonwealth). However, Norfolk's machinery of government arrangements is more characteristic of the exercise of local government. The nine member Assembly operates in some ways like a Shire Council and the Government is rarely a cohesive force, with the Assembly often restricting the Government's capacity for maintaining an up to date legal regime and longer term planning and direction for the Island bureaucracy. [A general election was held on 29 November 2001 after a vote of no confidence in the Government through a referendum resulting from a petition presented to the Assembly in September].

As with the ACT and Northern Territory, the head of the Territory Government is the Chief Minister and four of the nine members form the Norfolk Island Government. There are no wards for electoral purposes and no seats reserved for particular groups.

Section 5 of the *Norfolk Island Act 1979* provides that there shall be an Administrator of the Territory who shall administer the government of the Territory as a Territory under the authority of the Commonwealth. The Administrator is appointed by the Governor General by Commission.

The Administrator is the senior Commonwealth Government representative in the Territory and at the same time acts as a type of "Governor". Consistent with this role, the Administrator is required to:

- exercise the discretions conferred on the Administrator under Norfolk Island legislation, the *Norfolk Island Act 1979* and other Commonwealth legislation (this includes performing a range of executive functions under Commonwealth laws in their application to Norfolk Island and acting as the Commonwealth Minister's delegate under certain local legislation);
- act in accordance with advice from the Norfolk Island Government on matters within its responsibilities, carry out formal and ceremonial duties (including official hospitality at Government House) and be involved in community, sporting and charitable organisations on the Island;

- represent the Department and other Commonwealth agencies (for example, the Office of Administrator performs functions on behalf of other Departments in relation to passports, visas, citizenship applications etc); and
- act as an unofficial ombudsman for the Norfolk Island community on a range of issues.

Commonwealth legislation generally does not extend to the Territory unless expressed to do so. Australian citizens have no automatic right of entry and the Island is outside the Commonwealth customs and immigration barriers. The Norfolk Island Government controls its own fiscus and raises its own revenue via a range of local (indirect) taxes and imposts. The Island Government does not participate in the Commonwealth/State/ ACT, NT revenue raising and sharing arrangements.

SERVICE PROVISION ARRANGEMENTS

Although Norfolk Island enjoys a substantial degree of self-government, the Commonwealth retains responsibility for a range of functions and services including:

- costs associated with the Office of the Administrator;
- funding of conservation works in the Kingston and Arthur's Vale Historic Area;
- administration of Crown lands; and
- funding for Legal Aid and some costs for Court administration.

The Australian Federal Police meets a percentage of the cost of police services on Norfolk. A recent murder investigation on Island has incurred unanticipated expenses that would normally be the responsibility of the Norfolk Island Government (a 70/30 split). The Australian Federal Police have agreed to meet the majority of the costs associated with the investigation in light of the Territory's current fiscal position.

Parks Australia, a Division of Environment Australia, manages and funds the Norfolk Island National Park and Botanic Garden. The Australian Fisheries Management Authority carries out fisheries surveillance while Coastwatch and naval patrol boats visit the region. Commonwealth funds are provided to maintain and operate the meteorological and ionospheric stations on the Island.

Norfolk Island residents are provided with education, social security services and the like while they are on the mainland at Commonwealth expense and some residents receive Commonwealth Social Security and War Veteran's pensions.

The Norfolk Island Government provides a range of services broadly comparable with the ACT and Northern Territory but including the following functions usually assigned to the Commonwealth:

Immigration – The Commonwealth *Migration Act 1958* does not extend to Norfolk Island. Entry and residence are controlled by the Norfolk Island Immigration Act 1980. A passport or document of identity is required for travel between Norfolk Island and the mainland.

Customs and Quarantine – The Commonwealth *Customs Act 1901* does not extend to Norfolk Island. A local customs duty is imposed on all items entering the Territory unless otherwise exempted by the Administrator following a resolution of the Legislative Assembly. Quarantine controls are applied under local legislation on the entry of animals and plants to the Island. Generally, these controls mirror those on the mainland.

Social Services – The Government operates its own social security system under local legislation, the Social Services Act 1980 (NI). Benefits are payable at levels around 80% of those on the mainland.

Health – Norfolk Island is not defined as part of Australia for the purposes of the *Health Insurance Act 1973* and persons resident on the Island are not eligible to receive benefits under the Medicare program. The Government operates its own Healthcare scheme, membership of which is compulsory for all persons aged 18 years and over ordinarily resident on the Island. Members of the scheme are liable to a Healthcare levy of \$150 per six months. Under the scheme, families/individuals must also pay the first \$2,500 incurred for medical expenses each year.

The Norfolk Island Government provides free infant, primary and secondary schooling on the Island. Classes follow the NSW Education system and curriculum and have been extended to include Year 11 and 12. The Norfolk Island Government has a Memorandum of Understanding with NSW for the provision of teachers and the NSW school curriculum.

The Commonwealth Grants Commission found that service delivery on Norfolk in several key areas, notably welfare, health insurance and vocational education, is well below mainland standards and that all mainland service and infrastructure standards could be met by revenue raising efforts on Island at mainland levels.

TRANSPORT AND TELECOMMUNICATIONS

Under the *Norfolk Island Act* the Norfolk Island Government has executive authority over those matters specified in Schedules 2 and 3 of the Act including:

- radio and television;
- postal services; and
- the provision of telecommunications services (within the meaning of the *Telecommunications Act 1992*) and the prescribing of rates of charge for those services.

At present Norfolk Island's main telecommunications link for mainland and international calls is through Telstra by means of the Norfolk Island to Sydney section of the Australia, New Zealand, Canada (ANZCAN) cable and the associated station on Norfolk Island. However, *Networking the Nation* provided funding of \$750,000 in February 2001 for the establishment of a two-way satellite earth station to replace (the use of) the cable. This upgrade of communications infrastructure will provide the Norfolk Island community with access to a range of telecommunication services at standards which are common to mainland residents but unavailable on the Island.

To date an operating agreement has been signed and expressions of interest for the building of the telecommunication centre have been sought. In the interim to provide backup in the event of failure of the ANZCAN cable Norfolk Island Telecom has installed a temporary stand-by dish.

Norfolk Island has also been successful in obtaining \$50,578 from *Networking the Nation* for the purchase and installation of videoconferencing equipment for the Island's first tele-health service and \$1,090,300 towards the infrastructure for a cellular telephone system. Norfolk Island's remote circumstances and exclusion from mainland Universal Service Obligations has been a factor in its successful application for *Networking the Nation* funding.

Norfolk Island operates its own postal and philatelic service separate from Australia Post, however, the Island relies on Australia Post for the delivery of mail, incoming parcels, etc from the mainland to the Island. A number of concerns about the charges, delays and condition of articles sent by Australia Post were raised at the 1999 Parliamentary Inquiry into Communications with Australia's External Territories.

It was noted in the Government's response to this Inquiry that Australia Post's Express post service did not cover Australia's island territories and while it endeavoured to provide the fastest possible delivery in any given circumstances, Australia Post was unable to guarantee fast delivery of Express Post outside the Express Post network areas.

While these issues are a commercial matter between the Norfolk Island Government and Australia Post, the Government's response noted the offer by the (previous) Ministers for Regional Services, Territories and Local Government, and Communications, Information Technology and the Arts, to facilitate discussions between Norfolk Post and Australia Post, to ensure an optimum level of postal services to Norfolk Island. This was on the basis that such assistance if it was necessary, was at the request of the Norfolk Island Government.

The collapse of both Flight West and Ansett has had major impact on the regular air services to Norfolk Island with the number of weekly flights reduced by more than half. Ansett had undertaken to replace some Flight West services to Norfolk Island prior to the demise of Ansett. Norfolk Jet Express, a local service provider, continues to provide Norfolk with its only direct mainland link through a 'wet lease' of the Air Narau plane and provides twice-weekly services from Sydney and Brisbane. Air New Zealand also services Norfolk Island.

The recent difficulties with air services within Australia, and to Norfolk Island are also likely to have resulted in a deterioration in the speed and frequency of postal services to the Island.

ENVIRONMENT AND HERITAGE

Managed and funded by Parks Australia, the Norfolk Island National Park, proclaimed in 1986, covers approximately one third of the Island and includes Phillip Island, the next largest Island of the Norfolk group.

Parks Australia also provides advice and assistance to the Administrator, the Norfolk Island Government, the Norfolk Island Administration and the public on wildlife management and environmental conservation in the Territory of Norfolk Island.

Kingston and Arthur's Vale Historic Area (KAVHA)

The Kingston and Arthur's Vale Historic Area (KAVHA) of Norfolk Island is one of the foremost national examples of a cultural landscape, with exceptional heritage values. These include the pre-European Polynesian settlement, the convict penal settlements between 1788-1856 and a place of living heritage for Pitcairn Islander descendants from 1856, in an outstanding natural setting.

Since 1973 the Commonwealth has accepted a large measure of responsibility for the national heritage buildings in KAVHA and originally established an inter Departmental Committee to determine the annual work program for the site. While the bulk of the restoration work on the major buildings was completed by June 1988, there is an ongoing need for maintenance of the buildings and structures, physical

enhancement of the area, interpretative work, stabilisation work as the first step in the conservation of structures not included in the Restoration Program, and development of the tourist potential of the area.

In 1988 the Norfolk Island Government agreed to jointly fund works in KAVHA. Under an agreed formula, the Commonwealth funds maintenance of the buildings, stabilisation and interpretation works while the Norfolk Island Government funds stabilisation, interpretation, day-to-day maintenance and tourist facilities. Contributions from both Governments are placed in a Trust Fund which is administered by the Norfolk Island Administration.

KAVHA is mainly crown land with a limited number of freehold blocks, and is currently recognised by entry in the Australian Register of the National Estate. Since November 1989 KAVHA has been managed by a joint Commonwealth/ Norfolk Island Government Management Board established under a Memorandum of Understanding (MOU). A revised MOU was signed in 1994.

The KAVHA Board comprises representatives of the Norfolk Island Government and representatives appointed by the Minister (responsible for Norfolk Island matters) for Regional Services, Territories and Local Government. Commonwealth members are currently from DOTARS and the Australian Heritage Commission.

The Board operates in accordance with the provisions of the Memorandum of Understanding (MOU) between the two Governments and provides advice in accordance with the Conservation Management Plan. The chair rotates between the Commonwealth and Norfolk Island representative on a financial year basis. The Norfolk Island Administrator is not a member of the Board, but has the right to attend and participate in all meetings.

KAVHA is a significant convict site containing one of the finest collections of colonial Georgian buildings in Australia and has been identified as one of several Australian convict transportation sites meriting World Heritage nomination. In 1998 a Norfolk Island referendum regarding the inclusion of KAVHA in a World Heritage nomination was rejected. As a result the Norfolk Island Government declined to be included in the nomination and the process was halted.

There is renewed interest on the part of Environment Australia for the nomination to be resurrected and it is likely that Norfolk Island will again be approached.

The Commonwealth's annual contribution to KAVHA is in excess of \$500,000 and arrangements are based on the following cost sharing formula specified in the MOU:

	Commonwealth	NIG
Repairs/Maintenance of Restored Buildings and Structures	100%	0%
New Stabilisation Works/Board Costs	50%	50%
Interpretive Works	33%	67%
Day to day Maintenance of Area, maintenance costs of interpretive works and tourist facilities	0%	100%

Revised MOU (1994)

The MOU sets out details of Board membership, meetings, cost sharing and financial arrangements. The MOU also specifies that the Board shall appoint a Project Manager and may appoint a Professional Services Coordinator. The MOU also enables the Board to delegate its functions to other parties.

While the Board is not incorporated and regularly takes an advisory role, Clause 15 of the current MOU states that:

"Recommendations and decisions of the Board will be implemented by the Administrator in consultation with the Norfolk Island Government, by the Norfolk Island Government, or by the appropriate Commonwealth departments and authorities as necessary."

The MOU (1994) records the need for "greater integration of approach and cooperation between the KAVHA Board and the Museum Authorities on Norfolk Island in the future". It also records the intention of the Governments "to establish the Board by local statute, drafted in consultation with the Commonwealth and including Commonwealth nominees on any future authority, as soon as possible after the end of 1995".

To date no action has been taken in relation to the establishment of the Board under statute. At an Inter Governmental Meeting in June 2000, the then Minister for Territories, Senator Ian Macdonald, tabled a request for consideration to be given to a review of the KAVHA management arrangements and sought comment from the Norfolk Island Government on this proposal. To date no formal comment has been received.

Business Plan

The KAVHA Management Board developed a Business Plan for KAVHA in 2000-2001 to clearly define the business of the board. The Plan states the Board's prime purpose is 'to manage a living place in an outstanding heritage setting' and establishes a **vision** for KAVHA as:

*"A well managed, conserved and interpreted KAVHA which:
is available for the sustainable use and enjoyment of the community; and
provides social, cultural and economic benefits."*

The Plan identifies the goals, strategies and actions it proposes to employ to achieve its vision for KAVHA. The Plan also spells out the Board's financial and marketing plan for the benefit of the community, other interested parties and investors in KAVHA's future. The Plan is to be updated annually and a number of the actions identified in the Plan are being carried out including development of a communications strategy, identification of revenue raising opportunities and the employment of a dedicated (part time) Secretary to the Board.

A major deficiency of the Business Plan proposal is the KAVHA Board's lack of legal identity (it is not incorporated) and the absence of any statutory power for the Board to employ, sign contracts or impose fees and charges. While the Board can continue to develop guidelines and strategies it lacks the legal capacity to implement many of the actions identified as essential to the future of KAVHA.

Conservation Management Plan

The Conservation Management Plan for KAVHA (currently under review) identifies the policies relating to the Management Board as follows:

Main policy: Oversee the management of KAVHA in accordance with agreed cooperative arrangements between the Commonwealth and Norfolk Island Government, currently set out in the Memorandum of Understanding.

*Continue a coordinated inter-governmental approach to management through a board or other management body whose members are aware of their responsibilities in implementing the Conservation Management Plan.
Any management body should include representatives from both Norfolk Island and mainland Australia reflecting the place's value to both communities.
Seek to formalise the status of the KAVHA Board by establishing it under local statute*

The Australian Heritage Commission also plays a role in relation to those areas outside KAVHA included on the Register of the National Estate.

LAND MANAGEMENT AND PLANNING FOR NORFOLK ISLAND – CROWN LAND

Norfolk Island has a total land area of approximately 3720 hectares. Under current land tenure arrangements, approximately 1010 hectares are Crown leasehold (in right of the Commonwealth), 1700 hectares are freehold, and the balance National Park, commons and public reserves, roads and vacant Crown land.

The administration of Crown land is governed by the *Crown Lands Act 1996 Norfolk Island*). Under Part II of that Act, the Administrator may grant a lease of unleased Crown land. The lease may be granted subject to conditions and can only be granted to a community organisation or a person who is granted residential status or general entry permit status under the *Immigration Act 1980* (Norfolk Island).

Administration of Crown land on Norfolk Island is currently carried out by the Office of the Administrator with the assistance of the Norfolk Island Administration. As a result of decisions made at the time of self-government, lease payments for Crown land are collected and retained by the Norfolk Island Government.

1995 Norfolk Island Land Review

In 1995 a Joint Commonwealth/Norfolk Island Government Land Review Working Group was established to consider the possible transfer of administrative responsibilities for land to the Norfolk Island Government. A report was compiled by the Working Group in May 1995 and the Group perceived several problems with the land systems of Norfolk Island, including:

- No land use / development planning / zoning controls;
- No Guaranteed Land Titles system;
- No effective environmental controls;
- Minimal land rates and charges;
- Interdependence of land, immigration and population policies;
- Inadequate conservation legislation / management plans;
- Inadequate controls on freehold and leasehold land;
- No public roads legislation; and
- Inadequate leasehold land legislation and policies.

Following public consultation and Working Group meetings a number of recommendations to overcome the problems of land management on Norfolk Island were proposed:

Statutory Land Use and Planning Scheme

The legislation (Environment Act 1990) as currently drafted be enhanced so that the Planning Act:

Provides for special consideration, including public notification and review, where an Application is judged to have environmental implications;

Requires public works and services to be subject to the Act as for any other Application;

Provides for the protection of items having Heritage significance; and

A review of the Planning Code be commenced early in 1996.

Land Subdivision

The controls applied to land subdivision be reviewed and for them to be more closely related to planning policies;

Removal of anomalies from the existing legislation; and

All planning subdivision to be subject to the provisions of the Planning Act.

Roads

Appropriate road legislation be enacted to provide for;

- The declaration of public roads, the opening and closure of roads and the dedication of public pathways and tracks;
- Legislation to establish the ownership of roads and rights of public access;
- The declaration of private roads where an access way serves multiple users.

Building and development control

The controls over siting and design of buildings be better related to the Planning Code; and

The proposed review of the Planning Code encompasses a consideration of siting and design controls for preservation of landscape values.

Commons and Public Reserves

Plans of management be developed to adequately and properly manage the commons and public reserves and that these Plans be given the force of law through the Planning Act or new commons and public reserves legislation.

Land titles

A special form of Guaranteed Land Titles is developed for Norfolk Island. This form of title must recognise the unique cultural attachment the Islanders have to the basis of the original land grants on the Island.

Crown Leases

Both Governments expedite the required changes to the Crown Lands Ordinance which would permit the earliest introduction of the recommendations of the Crown Land review.

The Working Group also recommended that the responsibility for lease administration be transferred to the Norfolk Island Government but such a transfer not occur until appropriate arrangements were in place. Further, as a precursor to the transfer of land responsibilities, the Norfolk Island Government was to satisfy the Commonwealth that adequate resources were available for their continued effective operation. The Working Group Report was endorsed by the then Commonwealth and Norfolk Island Governments.

While some progress was made in relation to the above, it was recognised in May 2000 that the following tasks initially to be undertaken by the Norfolk Island Administration, remained outstanding:

- Review of the NI Plan;

- Implementation of the requirements of the Heritage Act 1996 (NI);
- Preparation of Plans of Management for reserves;
- Preparation of road codes and legal definition of roads under the Roads Act 1996 (NI);
- Preparation of health codes;
- Preparation of building codes; and
- Amendment to the Crown Lands Act 1996 (NI).

A strategy was developed by DOTARS for Ministerial consideration that would see the establishment of a robust and efficient land management regime on Norfolk Island as well as the transfer of some Crown land from Commonwealth ownership.

2000 Commonwealth and Norfolk Island land initiative

At the Inter-governmental Meeting in June 2000, the Commonwealth agreed to consider the transfer to freehold ownership of certain Crown land on NI to current leaseholders upon the completion of a number of prerequisites. This initiative was consistent with the Federal Coalition's commitment to the freeholding of land in Australia's external Territories and consistent with the Commonwealth Property Principles. A joint NI Commonwealth Task Force was formed to progress the prerequisites on a cost sharing basis.

At the Inter-Governmental Meeting on 9 June 2000 (in response to an approach by the then NI Chief Minister) the Commonwealth advised the NI Government of its support for the withdrawal of the Commonwealth from ownership of certain Crown land. The NI Government was advised that the Kingston and Arthur's Vale Historic Area (KAVHA) and the Norfolk Island National Park and Botanic Gardens were not included in the land transfer initiative.

Transfer is dependent on the completion of a number of prerequisites agreed between Governments: a review of the NI Plan; implementation of a local heritage regime; Plans of Management for Public Reserves; and development of health, road and building codes.

As a result of strong community opposition to the transfer of land to the NI Government, a decision was made to make the offer of transfer (optional) direct to current leaseholders.

To avoid speculative leasing activity there is a moratorium on subdivision of both freehold and Crown land unless exceptional circumstances apply. The joint NI/Commonwealth Task Force is progressing the prerequisites. The Department is also liaising with relevant Commonwealth portfolios concerning a number of issues including national environmental and heritage significance and Crown land transfer.

The actual transfer process is yet to be finalised. The general terms of the leasehold offer was announced by the Minister for Regional Services, Territories and Local Government in a letter to leaseholders in March 2002. The proposed terms of the transfer are based on 10% of the 1996 Unimproved Capital Value of the lease plus an instrument fee of \$200 per transfer. This figure was determined after consultation with the Australian Valuation Office and reflects the Commonwealth's reversionary interest in the Crown leases. There will be 12 months to accept the formal offer when made and reasonable extended terms of payment.

The March 2002 letter to leaseholders also outlines a number of payment options together with matters that the Minister will be considering prior to the transfer including:

- if it is in the Commonwealth's interest to allow the lease to be converted;
- if the lessee is currently in compliance with their lease conditions; and
- lease payments are not in arrears.

The offer of freehold title is optional and the current intention is that leaseholders not taking up the freehold offer will remain Crown lessees.

As part of the Norfolk Island Land Initiative an environmental consultant (Nildesperandum Ecological Consultants, Gilmour and Helman) undertook an assessment of NI Crown land for features of national environmental significance (NES) 2001 to assist in ensuring protection of environmental values post transfer. The report was also prepared to fulfil possible commitments in relation to the *EPBC Act 1999*.

The NES report is presently the subject of negotiations between Crown Leaseholders and the Commonwealth. As such it is yet to be publicly released. The report has not identified any matters of NES that would preclude the transfer of Crown leasehold land. The report is currently being discussed with Environment Australia to ascertain whether there are any substantive matters that need to be addressed prior to transfer. To date there is no critical habitat listed on Norfolk Island under the *EPBC Act 1999*.

LEGAL AID

The Federal and Norfolk Island Governments established a legal aid scheme on Norfolk Island in 1995 to assist disadvantaged Norfolk Islanders obtain legal representation and advice. The Governments entered into a memorandum of understanding (MOU) whereby the Federal Government would provide 80% of the total projected annual costs of the scheme (ie, some \$45,000 per annum).

The Legal Aid Act 1995 (NI) implementing the Agreement, was passed by the Norfolk Island Assembly, and saw the scheme commence on 1 July 1995. The Australian Capital Territory's Legal Aid Commission acts as the providing agency for the purposes of the Act and helps administer the scheme, primarily by engaging the services of local practitioners as necessary.

In 2001 the Federal and Norfolk Island Governments agreed to review the operation of Norfolk Island Legal Aid Scheme in response to lower than expected usage of the service. The aim was to determine whether the needs of those Norfolk Island residents, in genuine need of legal aid, were being met. The review was to also identify any practicable measures that would enhance the scheme and improve the level of accessibility and use. An officer from the ACT Legal Aid Commission was commissioned to undertake the review.

Review recommendations included:

- An ongoing community education scheme;
- Publicity concerning the availability of legal aid assistance on Island;
- Inexpensive publications on the scheme to be made available at community centres;

- Formal arrangements between the NI and ACT Governments for future provision of services;
- Introduction of a duty lawyer scheme;
- Access by NI residents to telephone free legal advice;
- Consideration of a dispute resolution process outside the Court process;
- A review of eligibility guidelines for legal aid assistance;
- Preparation of Addendum to existing MOU between NI and Federal Governments concerning use of funds;
- Formalisation of the objectives of the scheme;
- Use of video conferencing be explored;
- Consideration of regular visits of a practitioner from ACT Legal Aid Commission;
- Statutory amendments to limit legal assistance to applicants for services approved under s 10 and include services of a qualified mediator where such services will obviate or reduce the need for legal services.

The review's findings and recommendations were forwarded to the Norfolk Island Government for comment in September 2000. Despite a number of follow up requests from DOTARS, a formal response is still awaited.

Section 31 of the Legal Aid Act 1995 (NI) requires the Norfolk Island Legal Aid Committee to prepare reports for the executive member to lay before the Assembly. Clause 12 of the MOU provides that copies of these reports will also be provided to the Federal Government. Reports from the Norfolk Island Government have been irregular despite continued requests from the Commonwealth.

NORFOLK ISLAND - CHRONOLOGICAL SUMMARY

- 1774 The island was uninhabited when discovered by Captain Cook. He named it Norfolk Isle after the Duchess of Norfolk and claimed possession of it for the British Crown.
- 1788 First penal settlement was established with a mixture of convicts and free settlers.
- 1814 First settlement abandoned.
- 1825 Second settlement was established for the worst convicts from New South Wales and Van Diemen's Land. (Until 1844 the Island was under the control of the Colony of New South Wales).
- 1844 Norfolk Island was annexed to Van Diemen's Land.
- 1855 Abandoned as a penal colony. A small caretaker presence remained.
- 1856 Entire population of Pitcairn Island was transferred to Norfolk Island. The Crown did not cede the Island to the Pitcairners (they were the recipients of land grants while other land was reserved to the Crown). (Small family groups left Norfolk Island to resettle Pitcairn Island in 1858 and again in 1863.)
- By an Order in Council dated 24 June 1856, made pursuant to the *Australian Waste Lands Act 1855*, Norfolk Island was separated from Van Diemen's Land and created "a distinct and separate settlement". The Governor of New South Wales was appointed Governor of Norfolk Island and given "full power and authority to make laws for the order, peace and good government of the said island".
- 1897 An Order in Council dated 15 January 1897 revoked the Order in Council of 1856 and made Norfolk Island a dependency under the Governor of the Colony of New South Wales. The Order also provided for the annexation of the Island to any Federal body to which New South Wales might later belong.
- 1900 An Order in Council dated 18 October 1900 vested administrative powers in the Governor of the State of New South Wales (with effect from 1 January 1901).
- 1913 The *Norfolk Island Act 1913* was assented to, but was not to come into operation until the King had placed Norfolk Island under the authority of the Commonwealth and the Governor-General had fixed a date of commencement. Under the Act, Norfolk Island was accepted as "a Territory under the authority of the Commonwealth" pursuant to section 122 of the Constitution.
- 1914 An Order in Council dated 30 March 1914 revoked the Order in Council of 1900 and placed Norfolk Island under the authority of the Commonwealth of Australia with effect from 1 July 1914, the date of commencement of the *Norfolk Island Act 1913*.
- 1965 The judgement of Eggleston J in *R vs Newbery* (in the Norfolk Island Supreme Court) concluded that Norfolk Island was a Territory placed by the Crown under the authority of the Commonwealth within the meaning of s.122. The Parliament therefore had power to make laws for the government of the Island.

- 1975 Senate Standing Committee on Foreign Affairs and Defence presented its report *United Nations involvement with Australia's Territories*. Among other things, the report noted that the population of Norfolk Island "is ethnically and culturally akin to that of the mainland" and that "its economic and social links are with Australia".
- 1975 Royal Commission (Sir John Nimmo as Commissioner) appointed by the Whitlam Government "to make inquiry into and to report and make recommendations on the future status of Norfolk Island and its constitutional relationship to Australia".
- 1976 The High Court of Australia ruled (in the case of Berwick Limited vs R R Gray, Deputy Commissioner for Taxation) that Norfolk Island is part of the Commonwealth of Australia and that the law-making power conferred upon the Commonwealth Parliament in respect of Norfolk Island by s 122 of the Constitution is plenary, that is, unrestricted in any sense.

The Nimmo Report was tabled in the Parliament in November 1976. Principal recommendations included greater autonomy for the Island (a Legislative Assembly), representation in the Parliament and extension of mainland income tax and social security.

In a preliminary response to the Nimmo Report, the Fraser Government announced its intention to continue to accept responsibility for maintaining Norfolk Island as a viable community and that its constitutional relationship to Australia would remain that of a Territory of the Commonwealth of Australia.

- 1977 The then Norfolk Island Council appealed to the United Nations Committee of 24 (Decolonisation Committee) to protect the Island from political integration into the Commonwealth without the consent of its residents. The Council's submission claimed separate constitutional, ethnic and cultural identity. It was not considered by the Committee.
- 1978 The Fraser Government decided that, among other things, mainland taxation and social service benefits would not be extended, a Legislative Assembly would be created with wide powers, an economic feasibility study would be commissioned to assess the Island's economic capacity and Commonwealth legislation would apply to the Island only if expressed to do so. (This was the substantive response to the Nimmo Report.)
- 1979 The President of the Society of Descendants of the Pitcairn Settlers visited UN officials to enquire about including Norfolk Island in the Committee of 24's list of dependent territories. He was told that the listing would have to be requested by a sovereign state.

The *Norfolk Island Act 1979* was proclaimed, conferring a degree of internal self-government, but in no way altered the Island's status as an integral part of the Commonwealth of Australia. In the words of the preamble to the Act, "Norfolk Island was, by the *Norfolk Island Act 1913*, declared to be accepted by the Commonwealth as a Territory under the authority of the Commonwealth". The words "Territory under the authority of the Commonwealth" afford no special status. This wording is taken from section 122 of the Constitution.

In essence, the Commonwealth Parliament, by enacting the *Norfolk Island Act 1979*, created the Norfolk Island Legislative Assembly and delegated a range of legislative and executive powers to it. In doing so, it was recognised that the fact that Norfolk Island is an integral part of Australia does not require it to be regulated by the same laws as regulate other parts of Australia. As such, the Commonwealth chose not to extend to Norfolk Island some of the laws that regulate the Australian mainland (eg federal laws on immigration, customs, social security etc).

- 1986 A submission from the Norfolk Island Government to the Distribution of Powers Advisory Committee to the Constitutional Commission argued that Norfolk Island should be regarded as a dependency of the Commonwealth and the Constitution amended accordingly. The Committee's 1987 Report rejected the proposal that the Island be given a new status.
- 1991 The House of Representative Standing Committee on Legal and Constitutional Affairs tabled in the Parliament a report on the legal regimes of the external Territories, "Islands in the Sun".
- 1992 In response to "Islands in the Sun", the Commonwealth *Electoral Act 1918* was amended to make provision for Australian citizens resident on Norfolk Island to vote in Federal elections.
- 1995 The Joint Standing Committee on the National Capital and External Territories tabled a report on freight and passenger transportation to Australia's Island territories, "Delivering the Goods". In response to the report an ABS Household Expenditure Survey has been conducted on Norfolk Island and the Commonwealth Grants Commission Act was extended to the Island.
- 1997 The Commonwealth Grants Commission reported on the Island's economic capacity, financial and administrative arrangements and government services.
- 1999 The Joint Standing Committee on the National Capital and External Territories tabled its report *Island to Islands: Communications with Australia's External Territories*. It made the following recommendation on telecommunications: "The Committee recommends that the Minister for Communications, Information Technology and the Arts, after due consultation between the Australian Government and the Norfolk Island Government, clarify the role of the Australian Broadcasting Authority in relation to Norfolk Island".
- 2001 The Joint Standing Committee on the National Capital and External Territories presented its report *In the pink or in the red? Health services on Norfolk Island*.
- 2002 Focus 2002 – a Norfolk Island Government initiative to examine Norfolk Island's sustainability and explore alternate revenue raising sources with assistance of from the Commonwealth Treasury and Department of Finance.



REPORTS AND STUDIES

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John A Nimmo 1976

A Conservation Strategy for Norfolk Island
Norfolk Island Conservation Society 1988

Waste Management Strategy for Norfolk Island
Community Change Consultants 1994

Norfolk Island Household Expenditure Survey
Australian bureau of Statistics 1995

Study of World heritage Values - Convict Places
Michael Pearson and Duncan Marshall 1995

Norfolk Island Planning Report Norfolk Island Plan
National Capital Authority 1996

Commonwealth Grants Commission Inquiry into Norfolk Island
Commonwealth Grants Commission 1997

*Norfolk Island: Recent Economic Performance, Present Situation And Future
Economic Viability Is there A Case For Change?*
Access Economics Pty Ltd 1997

Norfolk Island Administration Strategic Review
John Howard and Associates 1998

A Study of Aged HealthCare Needs for Entitled Veterans, Norfolk Island.
Richard Tate, Health Consulting Group, Victoria (for NI RSL funded by Department of
Veterans Affairs) 1998

Territorial Limits: Norfolk Island's Immigration Act and human rights.
Human Rights and Equal Opportunity Commission. March 1999

Islands to Islands: Communications with Australia's External Territories.
Joint Standing Committee on National Capital and the External Territories.
March 1999

Norfolk Island Waste Management Audit and Options Study
A Prince Consulting. December 2000

In the Pink or in the Red? Health Services on Norfolk Island
Joint Standing Committee on the National Capital and External Territories July 2001

NORFOLK ISLAND – KEY ORGANISATIONS

OFFICE OF THE ADMINISTRATOR

New Military Barracks
Kingston
NORFOLK ISLAND 2899

Norfolk Island Legislative Assembly
Old Military Barracks
Kingston
NORFOLK ISLAND 2899

Norfolk Island Administration (Norfolk Island Public Service)
Kingston
NORFOLK ISLAND 2899

ORGANISATIONS AND CLUBS

Kingston and Arthur's Vale Historic Area Management Board
NORFOLK ISLAND 2899

Accommodation and Tourism Association
PO Box 452
NORFOLK ISLAND 2899

Conservation Society
PO Box 791
NORFOLK ISLAND 2899

Chamber of Commerce
PO Box 512
NORFOLK ISLAND 2899

Norfolk Island Fishing Club
PO Box 797
NORFOLK ISLAND 2899

Museums Trust
PO Box 287
NORFOLK ISLAND 2899

National Park Advisory Committee
NORFOLK ISLAND 2899

Society of Pitcairn Decendants
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Chief Minister and Minister for Intergovernmental Relations

The Hon Geoff Gardner MLA

Minister for Finance

The Hon Graeme Donaldson MLA

Minister for Community Services and Tourism

The Hon David Buffett MLA

Minister for Land and the Environment

The Hon Ivens (Toon) Buffett MLA

Norfolk Island Administration (Public Service)

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COCOS (KEELING) ISLANDS

DESCRIPTION

The Cocos (Keeling) Islands are located in the Indian Ocean 2,950 kms north-west of Perth and 3,700 kms west of Darwin (96⁰ 52' East' 12⁰ 10' South). There are 27 coral islands in the group, with a total land area of approximately 14km².

Apart from North Keeling Island, which is approximately 30 kms from the main group, the Islands form a typical horseshoe-shaped atoll surrounded by a coral reef. Each island has rough coral beaches to seaward and sandy beaches or mudflats on the lagoon side. The Islands are low lying and most are thickly covered with coconut palms.

Wildlife consists mainly of seabirds, such as frigatebirds, boobies and mutton birds, which are restricted to uninhabited islands, especially North Keeling. Land crabs are common on all islands.

The climate is tropical with high humidity. Temperatures range from 20°C to 30°C. The average rainfall is 2000 mm per annum, falling mainly from January to August. The south-east trade winds blow most of the year, producing pleasant weather conditions.

The Cocos (Keeling) Islands are 3½ hours behind Eastern Standard Time (EST), ie 9:00 am EST = 5:30 am Cocos time. (Add one hour for daylight saving).

CULTURAL ISSUES

Of the 27 islands in the Cocos (Keeling) Islands group, only two - Home Island and West Island - are permanently inhabited. The social and cultural profile of these two islands is quite distinct as outlined below.

Home Island

The population of Home Island (approximately 520) comprises mainly the Cocos Malay community. The Cocos Malays are descended from people brought to the Islands in the 19th century from Malaya, East Africa, China, Java, India and Ceylon. They are predominantly Malay, speak a local variant of Malay, known as Cocos Malay, and follow the Islamic faith. They have been an isolated community for most of the 160 years they have lived on the Islands. It is only since the Australian Government's purchase of Mr Clunies-Ross's remaining interests in the Islands in 1978 that the Cocos Malays have had extensive contact with the West Island community and mainland Australia (especially communities in Geraldton and Katanning).

Although many of the Cocos Malays mix freely with residents of West Island, the Home Island community is quite separate. Cocos Malays lead a traditional lifestyle in accordance with their religion and customs.

At the time of the Act of Self Determination in 1984 the Commonwealth gave a commitment to the Cocos Malay people to respect their religious beliefs, traditions and culture.

As guests on private property, visitors to Home Island need to be particularly mindful of Islamic religious values and the social customs of their Cocos Malay hosts.

West Island

The population of West Island is about 150, mostly Europeans from mainland Australia, many of whom are the mainland-recruited employees of various government departments and their families. They are usually on short term postings of between one and three years. There are also some mainland residents who have business interests on the Island. The main Commonwealth facilities, including the substantial airstrip, are located on West Island.

HISTORY

Although the Cocos (Keeling) Islands were discovered in 1609, they were not inhabited until 1826, when an Englishman, Alexander Hare, established a settlement on the main atoll. The next year Captain John Clunies-Ross, a Scottish seaman and former employee of Hare, settled on another of the islands of the atoll.

In 1857 Captain Fremantle of *HMS Juno* formally declared the Islands part of the British Dominions. In 1886 Queen Victoria granted all the Islands to John Clunies-Ross's grandson George and his heirs, reserving powers to the Crown to resume land for public purposes and to conduct cable communications.

In 1955 the Islands, which had been governed through the British colonies of Ceylon, the Straits Settlements and Singapore, were accepted as a Territory of Australia. In 1978 the Australian Government purchased from Mr Clunies-Ross his property interests in the Islands, other than his family home (Oceania House) and surrounding grounds on Home Island (approximately 5 hectares in total).

In 1979 the village area (kampong) of Home Island was transferred to the Cocos (Keeling) Islands Council, the local governing body elected by the Home Island community, to be held in trust for the kampong residents. In 1984 the remainder of the land within the Islands, apart from land owned by the Commonwealth and Mr Clunies-Ross, was transferred by trust to the Council on behalf of the Cocos Malay community. The Commonwealth purchased the remaining property of Mr Clunies-Ross, known as Lot 14 on Home Island, in 1993.

On 6 April 1984 the Cocos community, in a United Nations supervised Act of Self Determination, voted overwhelmingly to integrate with Australia. The Government made a commitment at that time to raise services and standards of living to comparable mainland Australian levels as soon as possible but in no more than ten years, that is by 1994. The Commonwealth Grants Commission was selected as the independent arbiter to monitor progress in achieving this goal.

Following consideration of the Grants Commission report and extensive consultations with the Cocos community and its legal representatives, the Government agreed on a package of changes to bring standards and conditions on Cocos to mainland standards. On 7 March 1991, the then Prime Minister and leaders of the Cocos Island community signed a Memorandum of Understanding which sets out the range of measures required to achieve equivalent standards of living in the Territory.

COMMUNITY DEMOGRAPHIC PROFILE

The Cocos Malay community constitutes the majority of the Territory population and has the majority representation on the Shire Council. The three Imams (Islamic leaders) on Home Island also play a strong role in relation to community issues and are held in high esteem by this strong Islamic community. Together they and their deputies form the Islands' Islamic Council. The community is also represented by the Cocos Congress and Kaum Ibu (the Cocos Islands women's group).

Business interests on the Islands are represented by the Muslim Business Association recently convened by local resident, Mr Ron Grant, who is also currently the Shire President. On West Island, the Cocos Islands Regional Business Association, represents some of the small businesses (President John Clunies-Ross Jr).

Compulsory education is a recent phenomenon for the Cocos Islanders, introduced in the 1980s, and many of the population over the age of 40 are illiterate. Cocos Malay is not a written language and this creates problems relating to employment and training on the Islands.

Despite the separateness of the Cocos Malay community there is regular interaction between the Cocos Malays and the mainlanders through social, sporting and community activities. West Islanders are regularly invited to Home Island to join in cultural celebrations and the annual Cocos Olympics is but one example of the social occasions that brings both communities together over a two week period for sporting activities for all ages.

GOVERNANCE AND LEGAL REGIME

The *Cocos (Keeling) Islands Act 1955*, administered by the Minister, provides the legislative basis for the Territory's administrative, legislative and judicial systems. An Administrator, appointed by the Governor-General under the *Administration Ordinance 1975*, is responsible for the law, order and good governance of the Territory and for Christmas Island. The Cocos (Keeling) Islands are an electoral district of the Federal seat of Lingiari, which includes Christmas Island and a large part of the Northern Territory.

The *Territories Law Reform Act 1992* amended the *Cocos (Keeling) Islands Act 1955* to apply most Commonwealth Acts along with the laws of Western Australia as were capable of applying in the Territory.

This introduced a contemporary body of Australian law and was a major step in extending to the residents of the Territory the same rights, responsibilities and obligations as enjoyed by their fellow Australians.

Local Government legislation based on that of WA was introduced in 1992. The first shire council election was held in 1993. The Shire Council is comprised of seven members and has some similar responsibilities to a local government on the mainland.

There are no statutory restrictions on visits to Cocos. The Commonwealth Migration Act applies to the Territory and no passports or visas are required when arriving on Cocos from the Australian mainland. However, flights to and from Perth occur through Perth International terminal and some form of identification must be

produced for clearance through Customs/Immigration, eg Medicare card in recognition of the customs and quarantine separation of the Islands from the mainland.

Further, following recent legislative amendments related to unlawful arrivals of asylum seekers, the Islands do not form part of the Australian Migration Zone for the purposes of handling persons arriving illegally onto the Islands. This does not affect persons already on the Islands or those who arrive lawfully.

SERVICE DELIVERY ARRANGEMENTS

Agreements are in place with the following Western Australian State Agencies for the delivery of State level services to the Indian Ocean Territories:

Commissioner for Equal Opportunity
Department for Community Development
Department of Consumer and Employment Protection (2 SDA's)
(incorporating former Department of Fair Trading, and Worksafe)
Department of Environmental Protection
Fire and Emergency Services Authority
Department of Fisheries
Department of Health
Department of Housing and Works
Department of Industry and Technology
Department of Justice
Legal Aid Commission
Library and Information Services WA
Department of Local Government and Regional Development
Main Roads WA
Medical Board WA
Department of Mineral and Petroleum Resources
Nurses Board WA
Parliamentary Commissioner for Administrative Investigations
(Ombudsman)
Department for Planning and Infrastructure (3 SDAs) *(incorporating former Ministry of Planning, Department of Land Administration and Office of the Valuer-General)*
Public Trustee
Department of Racing, Gaming and Liquor
Small Business Development Corporation
Department of Training
Department of the Treasury and Finance
WorkCover

The Cocos (Keeling) Islands Administration is responsible for the provision of a number of services including:

- utilities (water, sewerage and electricity) currently provided under contract to Watercorp;
- airport management, through an agreement with Westralia Airports Corporation in conjunction with Christmas Island;

- public transport including ferry services which are currently provided under contract by the Cocos Co-operative;
- marine services including ferry and jetty maintenance;
- West Island housing; and
- public building maintenance including the Administration centre and cyclone shelter.

PROVISION OF OTHER SERVICES

Justice and Community Safety

Policing services are provided to the Indian Ocean Territories (IOTs) through an agreement with the Australian Federal Police (AFP) funded by DOTARS.

The AFP provide community policing services, including the maintenance of peace and good order, the protection of people and property, the investigation and prevention of crime, and the enforcement of laws applied in the IOTs.

The following justice and community safety services are provided through individual Service Delivery Arrangements (SDA's) with relevant WA Agencies:

Court Services
 Legal Aid
 Equal Opportunity
 Ombudsman
 Fire and Emergency Services
 Workplace Safety and Workers' Compensation
 Explosives and Dangerous Goods

The attached 2000/2001 SDA Performance Reports provide information about each of the above services received under the SDAs.

Education

School based education (from Pre-school to Year 10) has been provided by the WA Department of Education on Cocos (Keeling) Islands since the late 1970's. IOT schools are managed as part of the Kimberley Education District and are fully aligned with WA processes and standards.

The schools are resourced to meet the needs of their student populations taking into account cultural, language and remote location factors. The Commonwealth Grants Commission 1999 Report found that school based education services provided to the IOTs are comparable to that provided in mainland communities.

Environment and Heritage

Environment and heritage issues in the Indian Ocean Territories are governed by Commonwealth and applied WA legislation. This includes the *Environmental*

Protection Act 1986 (WA)(CI)(CKI), Land Administration Act 1997 (WA)(CI)(CKI), Town Planning and Development Act 1928 (WA)(CI)(CKI), Local Government Act 1995 (WA)(CI)(CKI), and the Commonwealth's Environment Protection and Biodiversity Conservation Act 1999.

A number of WA agencies are employed to provide State-type environment services in the Indian Ocean Territories. Heritage is exclusively under the Commonwealth regime.

North Keeling Island was declared a National Park in 1995 and is administered by Parks Australia.

Local

A Town Planning Scheme for the Cocos (Keeling) Islands is being developed according to applied WA planning legislation. It is anticipated that the Cocos (Keeling) Islands draft Town Planning Scheme may be finalised in a further 6 months.

Town Planning Schemes are usually accompanied by a Local Planning Strategy, which sets out the general aims and objectives for the future direction of the respective local government. This includes an analysis of the environment and heritage aspects of the area, pressures and management options. The draft Cocos (Keeling) Islands Town Planning Scheme includes a Local Planning Strategy.

State

Environmental monitoring and protection services for the Indian Ocean Territories, including statutory measures under the *Environmental Protection Act 1986 (WA)(CI)(CKI)*, are currently provided under contract to DOTARS by Skua Nominees Pty Ltd (trading as EcoZ). The relevant officer deals with matters such as licences including applications, approvals, amendments, and transfers, as well as pollution abatement notices, discharges of waste and creation of pollution, and discharges or emissions in emergencies.

Federal

All land in the Indian Ocean Territories is defined as Commonwealth land for the purposes of the *Environment Protection and Biodiversity Conservation Act 1999*.

There are items listed on the Register of the National Estate and the Department regularly consults the Australian Heritage Commission, including under s. 30 of the *Australian Heritage Commission Act 1975*.

Health and Community Care

The IOTs Health Service currently provides a range of health services to residents on Cocos (Keeling) Islands through two health centres. The IOTHS is a business unit of the Christmas Island Administration funded and managed through DOTARS.

A Service Delivery Arrangement is in place with the WA Department of Health for the provision of general advice and assistance as requested. See attached SDA performance report.

Transport

National Jet Systems (NJS) operates twice weekly return air services between Perth, the Cocos (Keeling) Islands [via Christmas Island] under contract to the Commonwealth. Passengers are expected to check in 1 hour 30 minutes prior to departure.

Other transport links with Cocos include a supply ship which sails from Fremantle approximately every four to six weeks.

On Island transport is administered by the Cocos Island Administration through contract to the Cocos Co-operative.

Housing

The Commonwealth has been the major housing provider over many years and owns a substantial stock of housing in the IOTs. These dwellings are occupied by a mixture of public housing tenants, Commonwealth employees and contractors, local government employees and private sector organisations.

A Service Delivery Arrangement is in place with the WA Department of Housing and Works to bring public housing tenancies in line with mainland standards using Homeswest policies and procedures as a benchmark - see attached SDA performance report.

Land Management

A Town Planning Scheme for the Cocos (Keeling) Islands is being developed according to applied WA planning legislation. It is anticipated that the Cocos (Keeling) Islands draft Town Planning Scheme may be finalised in a further 6 months.

A Service Delivery Arrangement is in place with the WA Department for Planning and Infrastructure (incorporating the former Ministry of Planning, Department of Land Administration and Office of the Valuer-General) – see attached SDA performance reports.

Other Urban Services

Service Delivery Arrangements are also in place with the Library and Information Services of WA and Main Roads WA – see attached SDA performance reports.

Economic Development and Tourism

The local economy consists of small local businesses, small scale tourism and Government services.

The Shire of the Cocos (Keeling) Islands has responsibility for approximately 85% of the Islands' land which was transferred from the Commonwealth to the Council by way of two trust deeds dated 1979 and 1984. Ownership of the remainder remains with the Commonwealth. The lack of clarity about the beneficiaries of the trusts has

impeded any decision about the future use of land. Work is currently under way to clarify and amend the trusts to overcome these problems.

The Cocos Islands Co-operative Society Ltd is the main employer of Cocos Malays (along with the Shire Council) and is responsible for management of the supermarkets on Home and West Islands, stevedoring activities, as well as West Island Lodge and the current public transport service on behalf of the Administration.

The Cooperative supermarket at the West Island settlement stocks groceries, fruit and vegetables, photo film, toiletries, alcoholic drinks, duty free cosmetics, perfumes, etc. The range of brands available is limited. The store usually opens during office hours. Prices for basic goods are considerably higher than on the mainland, but spirits, beer and cigarettes are often cheaper than the mainland and usually equate with duty-free prices.

Many other goods are available from "agencies" operated privately by West Island residents. These include a range of duty-free goods, clothing, toys, photographic equipment, fishing gear, electrical goods, compact discs, shoes, pewter, tupperware, crockery sets and hi-fi stereo equipment. Duty Free shopping is also available on entry and departure from the Island.

A Commonwealth Savings Bank agency is located next to the duty free shop. While trading bank facilities as such are not available, mainland bank cheques can be used to purchase from the store or agencies. Limited credit card facilities are available on the Islands. The Post Office on West Island provides postal and philatelic services.

An Economic Development Committee has been established with Commonwealth funding on the Island to promote economic development and enhance business opportunities in the Territory.

Social and Welfare Services

A Service Delivery Arrangement is in place with the WA Department for Community Development to provide professional supervision, support, consultancy and ongoing professional development to the social worker employed by the IOTs Health Service.

Utilities and Infrastructure

The Commonwealth is responsible for the provision and maintenance of the infrastructure for the delivery of government services on the Cocos (Keeling) Islands. This includes education, health and utilities infrastructure which is usually the responsibility of a state government. The public infrastructure on the Cocos (Keeling) Islands has been maintained in reasonable condition over recent years. However, to ensure facilities are provided in line with mainland conditions there has been a need to provide an annual government commitment for capital works projects. In 1999 the Commonwealth Grants Commission reported on the standard of infrastructure on the Island and recommended a forward program of works over the next five years (ie until 2003-04) totalling \$26.7m.

Major projects currently in progress or planned for Cocos include sewage treatment systems for Home and West Island, electrical upgrading, staff housing renewal and the construction of new port facilities at Rumah Baru on West Island. The Rumah Baru facilities have been referred to the Parliamentary Standing Committee on Public

Works which has recommended that the works proceed as a single project, without staging, at an estimated cost of \$16m. The Commonwealth commitment to this project was announced in the 2002-03 Federal budget.

The Shire Council manages and maintains the housing on Home Island, provides horticultural and road maintenance services, garbage collection and tip maintenance, coral and sand supplies and some limited contract work.

CONTACT LIST – COCOS (KEELING) ISLANDS

Cocos (Keeling) Islands Administration

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SHIRE OF THE COCOS (KEELING) ISLANDS

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(CEO) Bob Jarvis (08) 91626669

Doctor (08) 91626655

School Principal Linda Steele (08) 91626650

AFP Sgt Darryl Kildey (08) 91626600

Australia Post Haji Radal Feyrel (08) 91626645

Bureau of Meteorology John Woody (08) 91626604

Airservices Australia Dave Hughes (08) 91626620

Parks Australia Wendy Murray (08) 91626678

RAAF (OIC) Mark Vermeeren (08) 91626608

COCOS CO-OPERATIVE SOCIETY

Ltd (Secretary) Balmut Pirus (08) 91627598

COCOS CONGRESS

(Chairman) Haji Adam (08) 91627584

Kaum Ibu

(Women's Committee) Danie Olbio (08) 91627504

COCOS ISLANDS REGIONAL BUSINESS ASSOCIATION

(President) John Clunies Ross (08) 91626612

Muslim Small Business Association (Convenor)

Ron Grant (08) 91626532

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Pauline Bunce, 1988

Cocos (Keeling) Islands Inquiry - First report
Commonwealth Grants Commission, 1986

CHRISTMAS ISLAND

DESCRIPTION

Christmas Island is located in the Indian Ocean, at a latitude 10° 25' South and longitude 105° 43' East. It is approximately 380 kilometres south of Java Head at the southern entrance to the Sunda Strait, approximately 1,350 kms from Singapore and approximately 2,650 kms from Perth. The nearest point of the Australian mainland is Northwest Cape which lies approximately 1,550 kms to the southeast.

The Island is the summit of a submarine mountain and has an area of 135 square kilometres. It rises steeply to a central plateau dominated by stands of rainforest. The plateau reaches heights of up to 361 metres above sea-level and consists mainly of soil within limestone pinnacles with layers of volcanic rock. There are a few running streams fed by subterranean water collected in limestone caverns.

The Island's 80-kilometre coastline is an almost continuous sea cliff, ranging in height to 20 metres. In a few places (about 13) breaks in the cliff give way to shallow bays and small sand and coral beaches. The largest of these bays forms the Island's port at Flying Fish Cove.

The Island is surrounded by an encircling coral reef. There is virtually no coastal shelf and the sea plummets to a depth of about 5,000 metres within 200 metres of the shore.

The climate is tropical and temperatures range from 21°C to 32°C. Humidity is around 80-90% and south-east trade winds provide pleasant weather for most of the year, although during the wet season, between November and April, it is common for some monsoonal activity to occur, producing a swell in seas around the island. The average rainfall is 2,000 mm per annum.

Christmas Island is three (3) hours behind Eastern Standard Time. (Add one hour for daylight saving).

COMMUNITY PROFILE AND CULTURAL ISSUES

There are about 1400 people ordinarily resident in Christmas Island at present. The population has an ethnic composition of approximately 70% Chinese, 20% European and 10% Malay. The Island was essentially a "mining town" producing high grade phosphate for much of the last century.

The Union of Christmas Island Workers (UCIW), formed in the 1970s, has played a prominent role in Island affairs. It has been instrumental in improving the wages and conditions of workers and residents on Christmas Island. Its role goes well beyond industrial issues. It maintains a strong presence in the local community. For instance it normally achieves majority representation from the UCIW ticket in the Shire Council elections.

Besides the elected Shire Council, the Chinese Literary Association, the Christmas Island Women's Association and the Christmas Island Islamic Council are three of

the main community groups. The Christmas Island Chamber of Commerce represents small businesses of the Island.

HISTORY

Christmas Island was named on Christmas Day 1643 by Captain William Mynors, the master of a passing ship. The first landing was recorded by William Dampier in 1688. For the next two centuries, little interest was shown in the island due to the difficulty of landing on its rugged coastline.

Following the discovery of phosphate deposits, the island was annexed by Britain in 1888.

Christmas Island was occupied by Japanese forces from March 1942 until the end of the Second World War, and in 1946 it became a dependency of Singapore.

By agreement with the United Kingdom, sovereignty was transferred to the Commonwealth of Australia on 1 October 1958 under *the Christmas Island Act 1958*.

The extensive phosphate deposits on Christmas Island have been mined for many years. The Phosphate Mining Corporation of Christmas Island ceased business in late 1987. The mine was reopened in 1990 as a union organised cooperative venture and is now operated by a private venture - Phosphate Resources Ltd (trading as Christmas Island Phosphates).

GOVERNANCE AND LEGAL REGIME

The Christmas Island Act 1958 is administered by the Minister and provides the legislative basis for the Territory's administrative, legislative and judicial system. An Administrator, appointed by the Governor-General under the *Administration Ordinance 1968*, is responsible for the law, order and good governance of the Territory and for the Cocos (Keeling) Islands. For the purposes of enrolment and voting in Federal elections, Christmas Island is an electoral district of the seat of Lingiari, which includes the Cocos (Keeling) Islands and a large part of the Northern Territory.

The Territories Law Reform Act 1992 amended the *Christmas Island Act 1958* to replace the previous laws of the Territory, which were largely based on the laws of colonial Singapore, with most Commonwealth Acts and with the laws of Western Australia which are capable of applying in the Territory.

Local Government legislation based on that of WA was introduced in 1992. Territory residents elect a 9 member shire council which has similar powers to local government councils on the mainland of Australia.

There are no statutory restrictions on visits to Christmas Island. The Commonwealth Migration Act applies to the Territory and no passports or visas are required when arriving from the Australian mainland. However, flights to and from Perth occur through Perth International terminal and some form of identification must be produced for clearance through Customs/Immigration, eg Medicare card in recognition of the customs and quarantine separation of the Islands from the mainland.

Further, following recent legislative amendments related to unlawful arrivals of asylum seekers, the Islands do not form part of the Australian Migration Zone for the purposes of handling persons arriving illegally onto the Islands. This does not affect persons already on the Islands or those who arrive lawfully.

SERVICE DELIVERY ARRANGEMENTS

Agreements are in place with the following Western Australian State Agencies for the delivery of State level services to the Indian Ocean Territories:

Commissioner for Equal Opportunity
Department for Community Development
Department of Consumer and Employment Protection (2 SDA's)
(incorporating former Department of Fair Trading, and Worksafe)
Department of Environmental Protection
Fire and Emergency Services Authority
Department of Fisheries
Department of Health
Department of Housing and Works
Department of Industry and Technology
Department of Justice
Legal Aid Commission
Library and Information Services WA
Department of Local Government and Regional Development
Main Roads WA
Medical Board WA
Department of Mineral and Petroleum Resources
Nurses Board WA
Parliamentary Commissioner for Administrative Investigations
(Ombudsman)
Department for Planning and Infrastructure (3 SDAs) *(incorporating former Ministry of Planning, Department of Land Administration and Office of the Valuer-General)*
Public Trustee
Department of Racing, Gaming and Liquor
Small Business Development Corporation
Department of Training
Department of the Treasury and Finance
WorkCover

The Christmas Island Administration is responsible for the provision of electricity to the Island through the Christmas Island Power Authority and oversees the provision of health services, including a social worker, to both Christmas and the Cocos (Keeling) Islands through the Indian Ocean Territories Health Service.

Management of the water and sewerage services has been contracted out to Watercorp.

The Shire Council provides a range of local government services.

PROVISION OF OTHER SERVICES

Justice and Community Safety

Policing services are provided to the Indian Ocean Territories (IOTs) through an agreement with the Australian Federal Police (AFP) funded by DOTARS.

The AFP provide community policing services, including the maintenance of peace and good order, the protection of people and property, the investigation and prevention of crime, and the enforcement of laws applied in the IOTs.

The following justice and community safety services are provided through individual Service Delivery Arrangements (SDA's) with relevant WA Agencies:

Court Services
Legal Aid
Equal Opportunity
Ombudsman
Fire and Emergency Services
Workplace Safety and Workers' Compensation
Explosives and Dangerous Goods

The attached 2000/2001 SDA Performance Reports provide information about each of the above services received under the SDAs.

Education

School based education (from Pre-school to Year 10) has been provided by the WA Department of Education on Christmas Island since the early 1990's. IOT schools are managed as part of the Kimberley Education District and are fully aligned with WA processes and standards.

The schools are resourced to meet the needs of their student populations taking into account cultural, language and remote location factors. The Commonwealth Grants Commission 1999 Report found that school based education services provided to the IOTs are comparable to that provided in mainland communities.

A four year trial of provision of limited Year 11 and 12 units commenced in the 2002 school year.

Environment and Heritage

Environment and heritage issues in the Indian Ocean Territories are governed by Commonwealth and applied WA legislation. This includes the *Environmental Protection Act 1986 (WA)(CI)(CKI)*, *Land Administration Act 1997 (WA)(CI)(CKI)*, *Town Planning and Development Act 1928 (WA)(CI)(CKI)*, *Local Government Act 1995 (WA)(CI)(CKI)*, and the Commonwealth's *Environment Protection and Biodiversity Conservation Act 1999*.

A number of WA agencies are employed to provide State-type environment services in the Indian Ocean Territories. Heritage is exclusively under the Commonwealth regime.

Christmas Island National Park, administered by Parks Australia, covers 63% of the Island and contains large tracts of tall rainforest, beaches, caves, fresh-water streams and waterfalls as well as rare plants, bird-life and other wildlife. The famous migration of large numbers of red land crabs occurs between October and January each year. Whalesharks are also commonly seen at this time of year.

Local

A Town Planning Schemes for Christmas Island has been developed according to applied WA planning legislation and recently came into force. This will enable the Shire to influence and manage local land use.

Town Planning Schemes are usually accompanied by a Local Planning Strategy, which sets out the general aims and objectives for the future direction of the respective local government. This includes an analysis of the environment and heritage aspects of the area, pressures and management options. The first stage of a comprehensive Local Planning Strategy is currently being considered by the Christmas Island Shire.

State

Environmental monitoring and protection services for the Indian Ocean Territories, including statutory measures under the *Environmental Protection Act 1986 (WA)(CI)(CKI)*, are currently provided under contract to DOTARS by Skua Nominees Pty Ltd (trading as EcOz). The relevant officer deals with matters such as licences including applications, approvals, amendments, and transfers, as well as pollution abatement notices, discharges of waste and creation of pollution, and discharges or emissions in emergencies.

The Department also oversees a mining lease with Phosphate Resources Ltd., which includes an environmental management plan and rehabilitation plan. There is close liaison with Parks Australia officers on Christmas Island and in their Darwin office. DOTARS also has a service delivery agreement with the WA Department of Mineral and Petroleum Resources to deal with applications for exploration licences and mining leases.

Federal

All land in the Indian Ocean Territories is defined as Commonwealth land for the purposes of the *Environment Protection and Biodiversity Conservation Act 1999*. Projects such as the Christmas Island Common Use Infrastructure Projects have triggered this legislation and require an environmental impact assessment and public environment report.

The Department is facilitating the proposed space launching facility by the Asia Pacific Space Centre. The APSC proposal is also subject to Federal environmental assessment, which is overseen by Environment Australia.

There are items listed on the Register of the National Estate and the Department regularly consults the Australian Heritage Commission, including under s. 30 of the *Australian Heritage Commission Act 1975*.

The Department has begun discussions with Environment Australia to develop a 'strategic assessment' for Christmas Island, under s.146 of the *Environment Protection and Biodiversity Conservation Act 1999*.

Health and Community Care

The IOTs Health Service currently provides a range of health services to residents on Christmas Island through an eight bed hospital facility. The IOTHS is a business unit of the Christmas Island Administration funded and managed through DOTARS.

A Service Delivery Arrangement is in place with the WA Department of Health for the provision of general advice and assistance as requested. See attached SDA performance report.

Transport

National Jet Systems (NJS) operates return air services between Perth and Christmas Island three times a week under contract to the Commonwealth. Passengers are expected to check in 1 hour 30 minutes prior to departure.

Charter flights from south east Asian destinations, including Singapore, Jakarta and Kuala Lumpur, operate from time to time.

Christmas Island Airport is an international airport with 24 hour operations available.

Other transport links with Christmas Island include a supply ship which sails from Fremantle approximately every four to six weeks.

Housing

The Commonwealth has been the major housing provider over many years and owns a substantial stock of housing in the IOTs. These dwellings are occupied by a mixture of public housing tenants, Commonwealth employees and contractors, local government employees and private sector organisations.

A Service Delivery Arrangement is in place with the WA Department of Housing and Works to bring public housing tenancies in line with mainland standards using Homeswest policies and procedures as a benchmark - see attached SDA performance report.

Land Management

Town Planning Schemes for each Island have been developed according to applied WA planning legislation. The Christmas Island Town Planning Scheme is due to come into force very soon and will enable the Shire to influence and manage local land use.

A Service Delivery Arrangement is in place with the WA Department for Planning and Infrastructure (incorporating the former Ministry of Planning, Department of Land Administration and Office of the Valuer-General) – see attached SDA performance reports.

Other Urban Services

Service Delivery Arrangements are also in place with the Library and Information Services of WA and Main Roads WA – see attached SDA performance reports.

Economic Development and Tourism

Since the closure of the Christmas Island Casino in 1998, low grade phosphate mining and low level tourism have been the main economic activities.

In August 1997 a new 21 year mine lease was signed with Phosphate Resources Ltd. The lease came into effect in February 1998 when associated fuel leases were signed. The mine lease contains a mining schedule, an environment management plan and a dust suppression program to ensure that mining is conducted according to acceptable environmental standards. Royalties are payable to the Commonwealth for mined material including phosphate, limestone and so on. A conservation levy, based on the tonnage of phosphate shipped, is directed towards a rainforest rehabilitation program overseen by Parks Australia.

Space Launch Facility

In June 2001 the Government announced it would provide up to \$100m under the Strategic Investment Incentive Programme to assist with the development of a space launch facility on Christmas Island. Of this \$100m, \$68.6m is to be provided for the construction of common use infrastructure on Christmas Island. This includes upgrading of airport facilities (runway lengthening and strengthening and additional emergency facilities), additional port facilities on the eastern coast, and an access road from the additional port facilities to the upper terrace.

The Asia Pacific Space Centre project offers the potential for economic development and employment in leading edge technologies for Christmas Island and Australia. It is expected that the space centre facility will generate 300-400 jobs in construction and up to 550 jobs in operation including 300 Russians on a temporary basis for launch operations.

General Economic Activity

There are a number of restaurants and bars on the island and a few retail outlets offering basic sporting goods and sportswear, jewellery, clothing, giftware, cosmetics, pharmaceuticals, books, electrical goods, furniture, white goods, hardware, etc. Small shopping areas are located at the Barracks and Temple Court in Settlement, Poon Saan, the Office Complex at Flying Fish Cove, the Kampong, and the airport.

General groceries are sold at the supermarket in Settlement and at shops in the Kampong, Poon Saan and Drumsite. Fuel is available opposite the supermarket in Settlement. Duty Free shopping is available on entry and departure from the Island.

There is a branch of the Westpac Bank at Flying Fish Cove. Automatic teller services are not available. However, for longer-term visitors, access to local accounts is available outside normal banking hours at sub-branches in the general stores at Poon Saan and the Kampong.

On-line EFTPOS access to Commonwealth Bank accounts, including credit card accounts, is available at the Post Office. The Post Office also provides access to

some other Australian Banks, as well as a full range of postage and philatelic services. Major credits cards are accepted by some retailers on the Island.

Approximately one third of residential properties on Christmas Island are privately owned. An integral part of the Commonwealth's program to promote economic development program for Christmas Island is the release of property to the private and commercial sectors, primarily through periodic public auctions.

An Economic Development Committee has been established with Commonwealth funding on the Island to promote economic development and enhance business opportunities in the Territory.

Social and Welfare Services

A Service Delivery Arrangement is in place with the WA Department for Community Development to provide professional supervision, support, consultancy and ongoing professional development to the social worker employed by the IOTs Health Service.

Utilities and Infrastructure

The Commonwealth is responsible for the provision and maintenance of the infrastructure for the delivery of government services on Christmas Island. This includes education, health and utilities infrastructure which is usually the responsibility of a state government. Up until 1992 the public infrastructure on Christmas Island had been allowed to become badly run down. The Christmas Island Rebuilding Program commenced in 1992 following endorsement by the Parliamentary Standing Committee on Public Works (PWC). The objective of the Program is to bring the Island's public infrastructure up to mainland standards.

Stage 1 of the Program, involving expenditure of \$102m, was completed in 1998-99. In 1999 the Commonwealth Grants Commission recommended that the program continue and endorsed a forward expenditure program totalling \$62m over the next five years (ie until 2003-04). Implementation of the program is currently underway.

Immigration Reception and Processing Facility

A purpose designed and built Immigration Reception and Processing Centre (IRPC) is being constructed on the Island with a first stage capacity of 400 detainees. At completion of the facility it will hold 1200 detainees.

To address the increased pressure on existing community infrastructure, the Government is funding the construction of dedicated sports facilities for the community and is bringing forward works on common-use infrastructure, including a much needed upgrade of the existing port facilities and the construction of an additional port and access road on the East coast of the Island.

MAJOR REPORTS AND STUDIES

Risky Business – Inquiry into the tender process followed in the sale of the Christmas Island Casino and Resort

Joint Standing Committee on the National Capital and External Territories 2001

Commonwealth Grants Commission Report on the Indian Ocean Territories 1999

Christmas Island Port Pricing and Management Study

Meyrick and Associates, November 1997

Spending and Income - Christmas Island and the Cocos (Keeling) Islands

Australian Bureau of Statistics, 1996

Christmas Island International Airport – Master plan

Federal Airports Corporation, April 1996

Report on Christmas Island Inquiry

Commonwealth Grants Commission, 1995

Delivering the Goods – Inquiry into Freight and Passenger Transport to Australia's External Territories

Joint Standing Committee on the National Capital and External Territories, 1995

Review of Education Policy in the Indian Ocean Territories

Victoria University, 1995

Christmas Island Economic Development Plan "Linking Australia to South East Asia"

Hassall & Associates, 1994

Christmas Island, Indian Ocean – A Tourism Overview

WA Tourism Commission, 1992

Islands in the Sun – the Legal Regimes of Australia's External Territories and the Jervis Bay Territory

Report of the House of Representatives Standing Committee on Legal and Constitutional Affairs, 1991

Tourism in the Indian Ocean Territories

Report of the House of Representatives Standing Committee on Environment, Recreation and the Arts, 1990

CONTACT LIST

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(Secretary)	Gordon Thompson	(08) 91648471
Christmas Island Tourism Association		
(President)	Jo-anna Pook	(08) 91648249
ISLAMIC COUNCIL		
(President)	Mahmood Ismail	(08) 91648484
INDIAN OCEAN GROUP TRAINING ASSOCIATION		
(Manager)	Alan Fealy	(08) 91647220
Westpac Bank (Manager)	Alan Hucker	(08) 91648221

KAVHA

BUSINESS PLAN

for 2000-2001

The following is a Business Plan for KAHVA based on a workshop attended and run by KAVHA Board members and observers on Norfolk Island on 14 March 2000.

KAVHA Business Plan

Contents

1	Background
2	Purpose
3	Vision
4	Values
5	Goals/Objectives
6	Management
7	Financial Plan
8	KAVHA's Future
9	Marketing Plan
10	Monitoring and Review
Attachment A	Strategies and Actions
Attachment B	Potential revenue earning activities
Attachment C	Financial Plan (spreadsheet)
Attachment D	Cyclical maintenance programme

1. Background

The Kingston and Arthur's Vale Historic Area (KAVHA) of Norfolk Island is one of the foremost national examples of a cultural landscape, with exceptional heritage values. These include, the pre-European Polynesian settlement, the penal settlements between 1788-1856 and a place of living heritage for Pitcairn Islander descendants from 1856, in an outstanding natural setting: with coral reef, lagoon, distinctive Norfolk Island pines, green rolling hills and valleys.

KAVHA is mainly crown land, currently recognised by entry in the Australian Register of the National Estate. It is managed by the KAVHA Board which comprises representatives of the Norfolk Island Government, the Commonwealth Department of Transport and Regional Services which has responsibility for territories, and the Australian Heritage Commission. The Norfolk Island Administrator is not a member of the Board, but has the right to attend and participate in all meetings.

The Board operates in accordance with the provisions of the Memorandum of Understanding (MOU) between the two Governments, and provides advice in accordance with the Conservation Management Plan.

2. Purpose of this Plan

The KAVHA Management Board has developed this plan to clearly define the business of the board.

The Plan identifies the goals, strategies and actions it proposes to employ to achieve its vision for KAVHA. The Plan also spells out the Board's financial and marketing plan for the benefit of the community, other interested parties and investors in KAVHA's future.

The KAVHA Management Board's prime purpose is to manage a living place in an outstanding heritage setting.

3. Vision (for KAVHA)

The KAVHA Management Board has considered where it wants KAVHA to be as a result of its stewardship. The vision is:

"A well managed, conserved and interpreted KAVHA which:

- is available for the sustainable use and enjoyment of the community; and
- provides social, cultural and economic benefits."

4. Values

KAVHA possesses heritage values of great significance that provide opportunities for education, conservation, interpretation and recreation for the Norfolk Island community and visitors alike. These values include:

- Significant national heritage, scientific and archaeological values based on the site's association with four distinct settlement periods in one place - pre European Polynesian occupation, two European settlements and a mixed British/European and Polynesian settlement. The substantial ruins and standing structures, archaeological sub-surface remains, landform, and cultural landscape elements are significant as an outstanding example of the development of global convict transportation. KAVHA is significant for its close association with [as the place of] the wreck of the Sirius on the adjacent reef in 1790 and first home of the Pitcairn Islanders who occupied Norfolk Island as a distinct and separate community.
- The traditional focal point of the NI community. A diverse site that contains the seat of Government and administration, essential services and community facilities, as well as historic and commemorative sites, making it a living asset with huge visitor attraction. Norfolk Island residents have a deep emotional and historical attachment to KAVHA because it has been continually and actively used as a place of residence, of work of recreation and of worship, since the arrival at Kingston Pier in 1856 of the Pitcairn Islanders, from whom nearly a half of the Island's population is descended. It holds significant symbolic, ceremonial, religious, lifestyle and cultural associations in a unique built and natural environment.
- In addition to being a prime exhibit of Norfolk Island's cultural heritage and of considerable social importance to the community, KAVHA is important for its aesthetic qualities which are valued by the community and visitors alike. The combination of cultural expression, natural forces and their patterns enable a perception and interpretation of the place as a 'picturesque' and 'romantic' landscape. The drama of its landform, sea and panoramic views creates a picturesque setting enhanced by visual links integral to the functioning of the First and Second penal settlements, while the subsequently undeveloped character and part ruinous configuration contribute to the romantic landscape, as does the strong streetscape quality of the built elements in 'Quality Row'. KAVHA also contains natural heritage.
- An experienced works team that exhibits pride in a well managed site and is drawn from a wider local community that recognises the historic and economic value of this community asset.

Further details of these heritage values are contained in the *Register of National Estate* statement of significance for KAVHA.

5. Goals

As a site with different heritage values and a large array of significant heritage elements, KAVHA is worthy of the utmost care in conservation and interpretation for current and future generations. The Board's goals for KAVHA, consistent with those identified in the MOU, are to:

- I. Conserve the site according to international best practice
- II. Efficiently and effectively manage KAVHA
- III. Achieve a strong partnership with the local community
- IV. Develop a diversified and adequate funding base
- V. Tell people about the KAVHA story

To achieve these goals the KAVHA Board has identified a number of strategies, actions and an achievable timetable to ensure the future of KAVHA as a heritage site of excellence.

6. Management

To ensure the best possible administration of this valuable heritage asset, the Board recognises the need for high level management, which is consistent with the CMP, MOU and all relevant legislation, in the following areas:

- Financial - to ensure there are sufficient funds to meet ongoing and emerging maintenance and capital works;
- Planning and approval processes - to minimise duplication, delay and excessive 'red tape' whilst ensuring all relevant regulatory and consultation requirements are observed;
- Usage of KAVHA - to avoid damage by visitors, pollution, vandalism and over-commercialisation;
- A strong partnership with the local community - to maintain important social values;
- Staffing – to maintain the experienced works team through the engagement and training of appropriately skilled staff, as well as the observance of all relevant workplace regulations; and
- KAVHA's heritage and tourism profile and reputation including public understanding of the roles of the Norfolk Island and Commonwealth Governments, and the requirements set out in law for the overall protection and conservation of KAVHA.

7. Financial Plan

KAVHA funding is currently limited to that provided by the Commonwealth and Norfolk Island Governments. These arrangements are based on the following cost sharing formula specified in the MOU:

	Commonwealth	NIG
Repairs/Maintenance of Restored Buildings and Structures	100%	0%
New Stabilisation Works/Board Costs	50%	50%
Interpretive Works	33%	67%
Day to day Maintenance of Area, maintenance costs of interpretive works and tourist facilities	0%	100%

For the 1999-2000 financial year the contributions were \$392,000 from the Commonwealth Government and \$267,000 from the Norfolk Island Government. Contributions for 2000-2001 have been confirmed at \$469,000 from the Commonwealth Government and \$286,600 from the Norfolk Island Government.

Attachment C provides a draft 5-year plan initiated in May 2000 and endorsed by the Board in October 2000.

The plan was prepared based on advice from the Project Manager and reflects the schedule of cyclic works required under the current CMP program (see Attachment D). Revision of the CMP is shown in the plan as scheduled for 2000-01 and 2001-02. Depending on the outcome of this revision there may be a need to make some adjustment to the cyclic works program.

Points to note include:

- The plan includes all foreseeable capital replacement expenditure such as re-roofing of the KAVHA buildings.
- Sundry Expenses have been included in salaries estimates.
- An additional \$30,000 pa is shown against the Sundry Expenses item from 2000-01 onwards to provide a full time secretariat for the Board.
- No estimates of engineering inspection or repair costs have been included in relation to Kingston Pier – as the extent of potential repair work will not be known until after an engineering investigation, the scope of which is yet to be defined. The Board will need to make allowance for potential significant expenditure on this item.
- No allowance, either for expenditure or income, has been included in relation to new activities that may be endorsed by the Board as an outcome of the business plan.

As they are able to be identified, estimates of revenue to be raised by the agreed projects will need to be incorporated into the financial plan. Similarly, the costs associated with developing and implementing these projects will need to be considered against the current ongoing and new (or currently deferred) capital/maintenance costs. It is likely that many of the items proposed for the short term, other than the preparation of a KAVHA Guide Book, will not require significant financial outlay other than that associated with salary and consumables for a dedicated Secretariat.

8. KAVHA's Future

The Board is conscious of the need to obtain new sources of money for KAVHA while increasing funding to a level which supports not only ongoing maintenance and interpretation but also allows for timely maintenance and new construction. The Board has identified the following initiatives on top of the current funding measures to (wards) a level which will enable it to achieve the Board's goals for KAVHA, namely for KAVHA assets to be conserved and maintained in a manner which reflects their full cultural and heritage values.

There is a need to increase people's awareness, both locally and further afield, of KAVHA, as a means of encouraging greater participation and visitor attendance whilst still maintaining the cultural and heritage values of KAVHA. Thus whilst some of the measures set out below have raising money as their goal, others may be aimed at increasing KAVHA's profile. Still others provide a combination of increasing awareness and revenue.

It is proposed that most of the development and implementation of these measures would be undertaken by a dedicated Secretariat¹ as part of an overall strategy agreed by the Board. While they are listed as separate items it is likely that many of the measures proposed would have varying degrees of interrelation.

Short Term (12-18 months) Initiatives

(the following numbering is not in any order of priority)

1. As recommended in the 1988 CMP (Vol 1 p17), develop a KAVHA Guide Book, utilising information obtained as part of the historical research for the revision of the CMP as well as other material currently available.
2. In consultation with other organisations located in KAVHA, develop guidelines for tour operators in KAVHA, including guidelines/criteria for permitting tour operators to operate in KAVHA as well as guidelines for tour operators to observe in conducting their activities in KAVHA.
3. Where appropriate identify opportunities for cost-sharing or sub-contracting some of the Board's Business Plan activities to the NI Museum or other organisations.

¹ The Development of a Guide Book for KAVHA would most likely require the services of a consultant.

4. Where appropriate, develop links with other Norfolk Island institutions/organisations, particularly the NI Museum, to increase their awareness and appreciation of KAVHA and the restoration/maintenance activities, and to identify opportunities for mutually beneficial collaborative activities to increase community and visitor participation and appreciation. This might include visits and presentations to these organisations by the CSC or the Project Manager, describing their role in KAVHA and what their current activities are.
5. School projects with a focus on KAVHA might be encouraged, as might investigation of the possibility of establishing links or 'twinning' with other schools located near similar heritage sights eg Port Arthur or overseas. Activities here might include exchanges of information on the Internet, the production and exchange of 'home videos' featuring KAVHA, or possible exchange visits by students.
6. If not already done, develop detailed chronologies for each building in KAVHA for inclusion in a Guide Book. Ideally these would identify/describe the function and occupants of the buildings from the original penal colonies, occupation by the Pitcairners up to their present day usage. Consideration could also be given to the possibility for some spin-off activities in this area to be undertaken as projects by students of the Norfolk Island school, as part of their school curriculum.
7. Examine existing information held by relevant organisations such as Norfolk Island Museums and Tourism Norfolk Island to identify a profile of the current visitors to Norfolk Island.
8. Establish a *Friends of KAVHA* group, encouraging both local and off-Island membership - offshore, the US and UK could be targeted through the links with those with specific interests or connections with the Bounty, or the convict era, or first or second settlement periods. In return for an annual subscription fee, members would receive a newsletter and invitations to special functions such as talks by those doing restorations etc. Local members might also be invited to take a more active role and work as volunteer guides, newsletter publishers, participate in 'living history' re-enactments along the lines of the current "trial of Fifteen" or 'Sound and Light Show'. Some initial secretariat assistance could be made available to the *Friends of KAVHA* by the Board through the dedicated KAVHA Secretariat.
9. In collaboration with other Norfolk Island organisations develop KAVHA's international appeal by, for example, using marketing strategies focussing on the international interest in the Bounty history or convict settlements. Establishing links with other internationally recognised historical sites such as Colonial Williamsburg in the United States and Port Arthur will enhance KAVHA's exposure and provide opportunities for information exchange.
10. Promote Norfolk Island as a venue for international conferences on themes associated with the KAVHA settlement to further awareness of KAVHA. For example, conferences and conventions on archaeological issues could be encouraged through links with affiliated groups and societies such as universities, historical societies and museums.

11. Pursue available funding from Government agencies (eg Visions Australia - DCITA, Community Heritage Grants – NLA, Cultural Heritage Projects Program - DoEH)
12. Investigate opportunities for support or sponsorship from philanthropic organisations/institutions and business corporations. In relation to sponsorship, this might include approaches to some of the current suppliers of material for the maintenance and restoration of KAVHA.
13. With due regard to minimising any negative impact on local charitable organisations or other organisations, institute additional open-days of KAVHA buildings, eg No 9 Quality Row, Government House, etc for a gold coin contribution.
14. Offer KAVHA sites for rental eg hiring out buildings for heritage tourism and other accommodation (No. 9), private social functions; activities (for showing movies, staging concerts), general and KAVHA linked conferences to provide remuneration as well as increasing awareness and interest in KAVHA.

Medium Term (2-3 years) Initiatives

1. In consultation with the community and existing users, develop and implement a system of fees– with a view to having existing commercial operations within KAVHA pay licence/access fees towards maintaining the areas they use, and promoting KAVHA as a location for film/photography 'shoots'(for a fee).
2. Develop, produce and market a range of KAVHA-specific merchandise, eg local crafts, maps, posters, guide books, postcards, and other appropriate souvenirs. In addition, develop off-shore interpretive opportunities through the Internet, publications, videos, and travelling exhibitions of KAVHA artefacts to mainland and other places. This could increase awareness of KAVHA and provide opportunities to sell KAVHA products.

Longer Term (5 years +) Initiatives

1. Charge entry fees/levies, eg tourists might make a gold coin donation for access to KAVHA sites, either individually, through tour operators or as an additional charge on top of departure tax.
2. Establish a Lottery with proceeds to benefit KAVHA (a smaller version of the Opera House lottery).
3. Reconsider the business opportunities presented by World Heritage listing.

9. Marketing Plan

The development of a detailed Marketing Plan will be a major component of the overall strategy to be developed by the dedicated Secretariat for the Board's approval. However much of the 'short term' activities listed are those that can be undertaken on a more informal basis, with the development of the 'Marketing Plan' being undertaken closer to the medium term.

10. Monitoring and Review

To ensure effective implementation of this Plan the Board agrees that strategies and actions will be carried out as near as possible to the agreed timetables². The Secretariat with the assistance of action officers will provide a report on all programs at the four-monthly KAVHA Board meetings in conjunction with the Project Manager's Report and the CSC's Report. The list of Strategies and Actions (Attachment A) will be updated after each KAVHA Board meeting by the Secretariat.

Agenda items for meetings should be limited in number, with the majority (of items) addressed out of session.

The Board agrees to an annual review of this Business Plan.

² The timetables for strategies and actions would need to take account of available resources -- without a dedicated Secretariat, timetables would need to be much more generous.

STRATEGIES AND ACTIONS

I. Conserve the KAVHA site according to international best practice

Strategies	Actions	Action Agency	Timing
<p>Revise the Conservation Management Plan (CMP). In addition to the general advances in the practice of heritage management, there are also opportunities to enhance the CMP's reflection of Pitcairner history and social values. (Priority Action)</p>	<ul style="list-style-type: none"> > Develop a task sequence for CMP revision – this should provide a plan of action and a timeline for further development which takes into account the work already done by the CSC and ensures that actions which would be most facilitated by the knowledge of the current CSC are given greater priority > Incorporate work already done and produce staged outputs - the option of segmenting the remaining parts of the CMP review into smaller discrete tasks should be considered. 	CSC in consultation with AHC	December 2000
<p>Develop KAVHA operational plans, business plans, project and other plans as needed, in a manner consistent with the CMP and addressing the full range of KAVHA's heritage values.</p>	<ul style="list-style-type: none"> > KMB to ensure that planning documents affecting KAVHA include reference to the need for consistency of proposals with the CMP and KAVHA's heritage values. 	KAVHA Board	<p>Ongoing; post-CMP Review as part of any review of documentation, preparation of new documentation, and as part of all planning processes for KAVHA.</p>

II. Efficient and effective management of the program

Strategies	Actions	Action Agency	Timing
Improve financial management and management practices	<ul style="list-style-type: none"> > Develop an asset management plan including long term funding requirements based on life cycle cost analysis <ul style="list-style-type: none"> 1 year annual programme 5 year forward strategic asset plan 20+ year projections 	DoTRS	Paper at March 2001 Board meeting
Adhere to provisions of MOU	<ul style="list-style-type: none"> > Financial plan – to be updated annually identifying funding requirements, and sources of revenue > Financial management – quarterly reports (in new format agreed at March 2000 meeting) against budget allocations > Develop performance indicators for financial reporting > Board to seek review of MOU upon completion of Business Plan and CMP Review (any Review of the MOU must be agreed by the parties: NIG and the Commonwealth) At the June 2000 IGM the Minister for Territories raised the need to reconsider the arrangements underpinning the joint Commonwealth-Norfolk Island Government management of KAVHA. > Evaluate current trial of processes for Board's consideration of applications out of session 	DoTRS Project Manager and Accountant in consultation with CSC and DoTRS Board	Oct 2000 Board Meeting From 2000-01 Financial Year Post CMP Review & completion of Business Plan
Reviews		Conservator and Administrator's Office in Consultation with Secretariat	Evaluation or progress Report by Feb/March 2001 Board meeting

Ensure maintenance of appropriate staffing levels, skills base and resources

- > Trial for 12 months the position of a dedicated secretariat to undertake, amongst other things:
 - A skills audit to ensure KAVHA has appropriately skilled staff
 - Identify sources of expert advice – availability, cost and value
 - Identify requirements for, and sources of training – availability, cost.

DoTRS in consultation with AHC, Secretary and Board Members

Paper at Oct 2000 Board meeting

III. Achieve strong partnership with the local community

Strategies

Clarify & streamline approval processes

- > Approval processes to be incorporated in relevant Plans and publicised
- > Identification of criteria and protocols for issues to come before Board at meetings
- > Develop Guidelines for procedures and treatment of issues to go to KAVHA Board including:
 - Identification of issues which must be referred to KAVHA which will include all those not covered under routine/non-adverse matters in plans above;
 - revise procedure for out-of-session comments by Board and disseminate widely;
 - forewarning of issues to Board whenever possible

Actions

Board
Secretariat

Action Agency

Timing

Post evaluation of current trial
By March 2001

	Secretariat	2000 -2002
<p>Development of strategy for community involvement to increase awareness of values in KAVHA (and why the controls are in place)</p>	<p>KAVHA newsletter (possibly a task for a dedicated Secretariat or a committee of a <i>Friends of KAVHA</i> group)</p> <ul style="list-style-type: none"> > Talks to community groups about KAVHA > Develop links with and involve school and other relevant NI organisation > Make existing information more freely accessible: KAVHA archive, library, museum > Set up a dedicated KAVHA website to provide information, photos and updates on what is happening in KAVHA, as well as possibly some sort of 'virtual' tour 	<p>2000 -2002</p>
<p>Encourage appropriate community activities including partnerships with the NI Museums, where appropriate (low key and locally focussed initially)</p>	<p>With due regard to minimising any negative impact on local charitable organisations or other organisations develop an Implementation Plan identifying timetables and including:</p> <ul style="list-style-type: none"> - Open days of KAVHA sites/buildings to enable the community to see the restoration and maintenance work being done and to talk to those involved in the work - Oral history – from people who have connections with KAVHA including residents, workers etc - Consultation/communication strategies <ul style="list-style-type: none"> - <u>individual</u>: meeting with those most affected by what happens in KAVHA - <u>public</u>: meeting with those in the wider community who have an interest in what is happening in KAVHA including NI Central School and Tourism NI - Media strategy – use radio as well as Internet, newspaper, TV (local network could be used to display changing pictures of KAVHA and updates on what is happening. The same pictures/text could be uploaded onto a dedicated KAVHA website) - Establish a Friends of KAVHA group 	<p>2000 - 2002</p> <p>Secretariat in consultation with Board</p>

IV Tell people about the KAVHA story

Strategies	Actions	Action Agency	Timing
<p>Make accurate information available (High Priority)</p> <p>Short Term:</p> <ul style="list-style-type: none"> > Prioritise proposed actions consistent with Interpretations Policy > With due regard to minimising any negative impact on other organisations, identify affordable actions for inclusion in budget considerations <p>Actions which might be considered, include:</p> <ul style="list-style-type: none"> - Develop a Guide Book as recommended in the 1988 CMP (vol 1. P 71) - Provide additional interpretive signs and brochures - Produce relevant audio and video tapes etc for sale at outlets other than KAVHA, eg shop at airport, through a website (Colonial Williamsburg in US has produced a range of educational videos) - Produce a regular newsletter for distribution to community and visitors - highlights of this could also be aired on the local TV channel - Guided tours – where appropriate, this could include quality control on the accuracy of current commercial tour companies as well as the establishment of walking tours of KAVHA, possibly in collaboration with the Friends of KAVHA. - Personal communication: eg by encouraging works team to act as sources of information on the sites they work on. - Make informative material available at other sites (eg NI Museum, airport, Tourism NI, NI Central School, mainland travel agents) - Produce a set of fact sheets - Hold workshops/discussion groups about specific aspects of KAVHA. Specific training workshops for the works 	<p>Secretariat/CSC in consult with NI Museums, and where applicable, Tourism NI</p>	<p>To be considered at first available 2001 Board meeting after appointment of dedicated Secretary</p>	

team/other staff could be modified and offered to interested members of the general public

Long Term

- Develop an Interpretation Plan consistent with CMP
- > Develop an oral history programme, including training for people to elicit and record the information – consideration might be given to seeking external funding to undertake this as it has been noted that with the significant ageing population on NI there is a need to pursue this sooner rather than later
- > Strengthen links to museum including research and as a venue for activities
- > Identify specific areas to research eg whaling, Pitcairn era and names
- > Restoration team knowledge and experiences, including building techniques used

Research untold stories

Secretariat/CSC in consultation with NI Museums

Included in the proposed tasks/activities for 2000-01

Integrate with others

Secretariat/CSC in consultation with NI Museums

To be discussed

- > NI Museums
- > Schools
- > Tour operators
- > Historical society
- > Tourism NI
- > Promote natural values
- > Develop programme to raise the standard of KAVHA information used/offered by others

Ensure conservation of historical records

Secretariat/CSC in consultation with NI Museums

To be discussed

V. Develop a diversified and adequate funding base

Strategies	Actions	Action Agency	Timing
Identify funding needs	<ul style="list-style-type: none"> ➤ Identify and prioritise immediate requirements for funding given current limited funds 	PM/CSC	Annually
Identify diverse sources of funding, ie new/different sources, traditional uses and activities to be exempt from fees and charges	<ul style="list-style-type: none"> ➤ With due regard to minimising any negative impact on other organisations, and in close consultation with stakeholders and the community identify and develop cost benefit analysis of potential revenue earning activities ➤ Seek Board approval for options and develop project plans for implementation 	Secretariat	Ongoing – For report at each Board Meeting

Possible types of activities are listed at Attachment B

Attachment B

The types of revenue earning activities which might be considered could include:

- Offer KAVHA sites for rental (eg hiring out buildings for accommodation including heritage tourism, private social functions; activities (for showing movies, staging concerts)
- Pursue available funding from Government agencies (eg Visions Australia - DCITA, Community Heritage Grants - NLA)
- Attract donations, philanthropy (this could also be an adjunct to a *Friends of KAVHA* group – eg the National Trust asks for additional tax free donations on its membership forms).
- Seek corporate sponsorship (as well as seeking corporate sponsorships of specific projects/things in KAVHA eg brochures, KAVHA artefacts or specific events, the Board could consider an approach to companies whose products are used in KAVHA restoration projects
- Develop a range of KAVHA-specific merchandise for retail, where appropriate this could include collaborative cost-sharing activities with other organisations, eg local crafts, maps, posters, guide books, postcards, and other appropriate souvenirs
- Establish a Lottery with proceeds to benefit KAVHA
- With due regard to minimising any negative impact on other organisations, charge entry fees/levies, eg tourists paying either a set fee or gold coin donation for access to KAVHA sites.
- Beneficiary pays
- Implement user pays policy– this could range from having existing commercial operations within KAVHA paying some sort of licence/access fee towards maintaining the areas they use (eg CEO Port Arthur Historic Site (PAHS) suggested in a report to Board in 1997 that professional tour operators be levied a fee per visitor they bring to the site, and that operators in Emily Bay also be asked to pay a site fee and percentage of turnover), to promoting KAVHA as a film/photography location (for a fee)

KAVHA 5 YEAR FINANCIAL PLAN (May 2000)

	1999-2000 \$'000	2000-2001 \$'000	2001-2002 \$'000	2002-2003 \$'000	2003-2004 \$'000	2004-2005 \$'000
CMP Program						
Salaries	219	193	230	230	230	230
Materials	25	51	55	55	55	55
Total Cyclic	244	244	285	285	285	285
Salaries	17	5	20	23	23	23
Materials	10	19	5	5	7	7
Total Non Cyclic	27	24	25	28	30	30
Salaries	42	68	72	104	99	75
Material	13	10	15	20	15	15
Total Stabilisation	55	78	87	124	114	90
Salaries	90	108				
Material	70	30				
Total No. 9 Q Row	160	138				
Salaries	10	7	8	8	8	8
Materials	9	20	52	52	52	52
Total Interpretation	19	27	60	60	60	60
Re-roofing			50	50	50	68
Q Row Gardens			28	20	20	20
Additional Works			78	70	70	88
Prof Fees	50	60	60	60	60	60
Sundry Expenses		30	30	30	30	30
CMP Revision		36	37			
No. 9 Buy-Back	15	15	15	15		
NIG Maintenance	92	95	95	95	95	95
TOTAL	662	747	772	767	744	738

2000 – 2001 KAVHA Programme

Cyclic Programme

Surgeons Quarters (H1A)		External	
Government House (A1A)		External	
No. 1 Quality Row	Internal		
OMB West Officers Quarters (D12D)	Internal		
OMB West Officers Kitchen (D12F)	Internal		
OMB East Officers Quarters (D12E)	Internal		
Surgeons Kitchen (H1B)	Internal		
Constables Quarters (H38)	Internal	External	
Royal Engineers Office (H30A)	Internal	External	
Royal Engineers Stable (H30B)	Internal	External	
Maintenance General			
Commissariat Store (D17A)	Internal		
Protestant Chapel (G5H)	Internal		
NMB Main building (D16A)	Internal		
NMB Guard House (D16D)		External	
		<i>Sub-Total</i>	<i>\$244,000</i>

Non-Cyclic Works

Government House fences and flag pole	\$ 6,000		
Unforeseen works	\$ 12,000		
Fire protection	\$ 6,000		
		<i>Sub-Total</i>	<i>\$ 24,000</i>
		Total	\$268,000

2001 – 2002 KAVHA Programme

Cyclic Programme

No. 2/3 Quality Row (D2/3A&B)		External
No. 6 Quality Row (D6A)		External
No. 7 Quality Row (D7A)		External
No. 7 Quality Row Annex (D7B)	Internal	
No. 10 Quality Row (D10A)	Internal	
No. 11 Quality Row (D11)		External
OMB Main building (D12A)	Internal	
OMB Building No.1 (D12G)		External
NMB Guard House (D16D)	Internal	
NMB Outbuilding (D16C)		External
Surgeons Quarters (H1A)	Internal	
Protestant Chapel (G5H)		External
Maintenance General		
	<i>Sub-Total</i>	<i>\$285,000</i>

Non-Cyclic Works

Government House Perimeter Fences	\$ 5,000
Fire Protection	\$ 8,000
Unforeseen Works	\$ 12,000
	<i>Sub-Total</i> <i>\$ 25,000</i>

Total \$310,000

Additional Works

Quality Row gardens	\$ 28,000
Complete Commissariat Store roof (D17A)	\$ 50,000
	<i>Sub-Total</i> <i>\$ 78,000</i>

2002 – 2003 KAVHA Programme

Cyclic Programme

No.1 Quality Row (D1)		External
No.5 Quality Row (D5)	Internal	External
No.7 Quality Row (D7)	Internal	
No.9 Quality Row (D9)		External
Surgeons Kitchen (H1B)		External
NMB Barracks (D16A)		External
NMB Officers Mess building (D16C)	Internal	
Government House Barn (A1F)		External
Government House Stable (A1B)		External
Government House Granary (A1G)		External
Flag Houses	Internal	External
Double Boat Shed		External
Single Boat Shed		External
Maintenance general		

Sub-Total \$285,000

Non-Cyclic Works

Fire Hydrants & Valves	\$ 5,000
Unforseen Works	\$ 14,000
Fire Protection	\$ 9,000

Sub-Total \$ 28,000

Total \$313,000

Additional Works

Quality Row gardens	\$ 20,000
Replace Protestant Chapel roof (G5H)	\$ 50,000

Sub-Total \$ 70,000

2003 – 2004 KAVHA Programme

Cyclic Programme

No. 6 Q Row	Internal	
No. 8 Q Row		External
No. 10 Q Row	Internal	
No. 11 Q Row	Internal	
OMB Privy (D12Q)	Internal	External
NMB Magazine	Internal	External
Constables Quarters (H36)	Internal	External
Royal Engineers Stable (H30B)	Internal	External
Royal Engineers Office (H30A)		External
Commissariat Store		External
Pier Store		External
Blacksmith Workshop		External
Surgeon's Quarters (H1A)		External
Maintenance general		
	<i>Sub-Total</i>	<i>\$285,000</i>

Non-Cyclic Works

Replace Wood Steps 2/3 Q Row	\$ 2,000	
Other Works	\$ 5,000	
Unforseen Works	\$ 14,000	
Fire Protection	\$ 9,000	
	<i>Sub-Total</i>	<i>\$ 30,000</i>

Total \$315,000

Additional Works

Quality Row gardens	\$ 20,000	
Replace part Double Boatshed roof (H32)	\$ 50,000	
	<i>Sub-Total</i>	<i>\$ 70,000</i>

2004 – 2005 KAVHA Programme

Cyclic Programme

No. 1 Quality Row	Internal	External
No. 6 Quality Row		External
No. 7 Quality Row		External
OMB Barracks (D12A)		External
OMB Military Hospital (D12G)		External
OMB Officer's Kitchen (D12F)		External
OMB West Officer's Quarters (D12D)		External
OMB East Officer's Quarters (D12E)		External
Protestant Chapel (G5H)		External
Settlement Guard House (H24)	Internal	External
Royal Engineers Office (H30A)	Internal	
Royal Engineers Stable (H30B)	Internal	
Pier Store (H23)	Internal	
Maintenance general		
	<i>Sub-Total</i>	<i>\$285,000</i>

Non-Cyclic Works

Unforeseen Works	\$ 14,000	
Fire Protection	\$ 8,000	
Other Works	\$ 8,000	
	<i>Sub-Total</i>	<i>\$ 30,000</i>

Total \$315,000

Additional Works

Quality Row gardens	\$ 20,000	
Replace roof of NMB Barracks, Single Boat Shed or Surgeon's Quarters depending on condition.	\$ 68,000	
	<i>Sub-Total</i>	<i>\$ 88,000</i>

LAND USE AND LAND TRANSFER BY THE COMMONWEALTH GOVERNMENT

SUMMARY OF JOINT COMMONWEALTH/NORFOLK ISLAND LAND INITIATIVE

Norfolk Island Land Initiative

- The joint Commonwealth/Norfolk Island Government land initiative was announced in June 2000 by the then Minister for Regional Services, Territories and Local Government Senator the Hon Ian Macdonald (see Attachment A- Joint Communique). The land initiative announced the Minister's in principle support for the withdrawal of the Commonwealth from ownership of certain Crown land on Norfolk Island held as residential, rural residential and rural leases, excluding that land in the Kingston and Arthur's Vale Historic Area (KAVHA) and the National Park and Botanic Gardens. KAVHA and the National Park and Botanic gardens were excluded due to their national significance. The transfer of any other Crown land on Norfolk Island has not yet been considered.
- The transfer of certain Crown land as part of the land initiative is contingent on the Norfolk Island Government and Commonwealth cooperating to complete the following prerequisites:
 - review of the Norfolk Island Plan;
 - implementation of requirements of the Heritage Act 1996(Norfolk Island);
 - preparation of Plans of Management for public reserves;
 - legal definition and physical examination of all roads and preparation of roads codes under the Roads Act 1996 (Norfolk Island); and
 - preparation of Codes under the Public Health Act 1996 (Norfolk Island)-(subsequently replaced with a Building Code and Water Control Development Control Plan).
- A joint Commonwealth/Norfolk Island Government Task force was formed to progress the prerequisites. The taskforce operates on a cost sharing basis between the two governments. Meetings of the joint taskforce are held on a regular basis.
- The land initiative involves the possible transfer of rural, rural residential and residential leases (outside of KAVHA) as freehold title to existing Crown leaseholders. Leases not freeholded as part of this process will remain Crown leases and will not be offered for open sale.
- There are 135 Crown leases subject to the possible freehold offer, comprising 26 rural leases, 58 rural residential leases and 51 residential leases. The Crown lands Act 1996 (Norfolk Island) stipulates that eligibility for a Crown lease is restricted to residents under the Immigration Act 1980 (Norfolk Island).

- The Minister's powers to dispose of Crown land are established under section 62 of the Norfolk Island Act 1979(Cth). Section 62 of the Norfolk Island Act 1979 provides that the "Minister may, in accordance with law, make grants or other dispositions of Crown land in the Territory" and gives the Minister for Regional Services, Territories and Local Government the powers to do with land as he/she sees fit, subject to applicable laws.
- The transfer of Crown land on Norfolk Island is consistent with the Commonwealth property principles viz:
"The Commonwealth should only own property where the assessed long term yield exceeds a nominated rate (at the outset of the principles, 14-15% per annum), or where it is otherwise in the public interest to do so."
- Crown lease payments for rural, rural residential and residential leases are currently set at 0.5% of the 1996 Unimproved Capital Value (UCV) or \$150 whichever is the greater. Current rents for rural, rural residential and residential leases range from \$150 to \$450. Section 23 of the Crown Lands Act 1996 (Norfolk Island) provides that the Administrator may determine the rent payable under a lease or a lease included in a specified class of lease.
- The Commonwealth should essentially retain property only on the basis of public interest, if that the property has certain national significance.
- The categories of significance which underpin a decision to retain property are:
 - National symbolic significance;
 - National security requirement;
 - Strategic significance to future government use;
 - Highly specialised use that inhibits commercial provision;
 - Significant heritage and environmental requirements;
 - Significant public usage; or
 - Potential to provide excessive negotiation leverage for a lessor; and special diplomatic requirements.
- The transfer of land of Crown leases on Norfolk Island is not inconsistent with the Commonwealth Property Principles.

Significant actions to date

- In June 2000 the Minister for Regional Services, Territories and Local Government issued Crown Land Instructions to the Administrator (see Attachment B) that stipulate that there be no subdivision, transfer or issue of Crown leases until further advice to the contrary, except in exceptional circumstances as determined by the Administrator. The moratorium has been agreed by both the Commonwealth and Norfolk Island Governments. It is required until the planning and land management regime is updated to avoid unplanned subdivision and/or associated lease activity and resultant speculation, which may reasonably have been expected as a result of the

announcement of the Commonwealth/Norfolk Island Land Initiative immediately following the inter-government meeting on 9 June 2000.

- A study of National Environmental Significance was commissioned by DOTARS in May 2001 to assess possible implications of the *Environment Protection Biodiversity Conservation Act 1999*, in particular issues of critical habitat and the Minister's responsibilities under s207c of the Act. There is currently no critical habitat listed on Norfolk Island and negotiations are continuing between DOTARS and Environment Australia (EA) regarding the findings of the study. DOTARS has not publicly released this study as it is subject to ongoing negotiations between DOTARS and EA. Individual negotiations with Crown leaseholders may result.
- The Minister for Regional Services, Territories and Local Government wrote to all Crown leaseholders in April 2001 (see attachment C- merged letter to leaseholders) requesting their comments on whether rural leases should be transferred directly to Crown leaseholders or to the Norfolk Island Government (Note -originally proposed that rural leases might be transferred to the Norfolk Island Government). After considering comments on this matter the Minister for Regional Services, Territories and Local Government announced in the *Norfolk Islander* (see attachment D Extract from *Norfolk Islander* 29/9/2001) that he intended to offer Crown rural, rural residential and residential leases (excluding KAVHA) direct to existing Crown leaseholders.
- The general terms of the leasehold offer was announced by the Minister for Regional Services, Territories and Local Government in his letter to leaseholders in March 2002 (see attachment E). The proposed terms of the transfer are based on 10% of the 1996 Unimproved Capital Value of the lease plus an instrument fee of \$200 per transfer. This figure was determined in consultation with the Australian Valuation Office (see attachment F –correspondence from AVO dated 12/7/2001) and reflects the Commonwealth's reversionary interest in the Crown leases.
- The March 2002 letter to leaseholders also outlines a number of payment options together with matters that the Minister will be considering prior to the transfer including:
 - if it is in the Commonwealth's interest to convert the lease;
 - if the lessee is currently in compliance with their lease conditions; and
 - lease payments are not in arrears.
- The offer of freehold title is optional and the current intention is that leaseholders not taking up the freehold offer will remain Crown lessees.
- As a result of representations from the joint Commonwealth/Norfolk Island Land Taskforce the Minister for Regional Services, Territories and Local Government has agreed to a change in the land initiative prerequisites, replacing the need for a health code with the requirement for a building code and a development control plan for water management (see

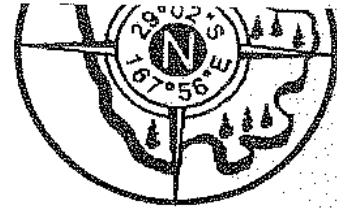
attachment G- letter to Norfolk Island Government Minister for Land & Environment).

- Lease inspections were undertaken in June 2002 and it is intended to write to lessees, who have leases that do not comply with lease conditions, outlining what matters will need to be rectified prior to any formal offer of transfer.
- DOTARS is continuing to address other due diligence issues in respect of the necessary transfer documentation and the necessary searches prior to transfer.
- It is expected that the prerequisites of the Commonwealth/Norfolk Island Land Initiative will be completed by the end of 2002 and that formal offers of transfer, from the Minister, directly to existing lessees, can be considered shortly after.

SECRETARY
Deputy Secretary
Rosanne Kava
Dianne Gayler



The N ISLANDER



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VOLUME 35, No 31

SATURDAY, 10th JUNE 2000

Price \$1.50

Joint Communique Commonwealth/Norfolk Island Inter-Governmental Meeting 9th June 2000

The Commonwealth Minister for Regional Services, Territories and Local Government, Senator Ian Macdonald met with Norfolk Island Executive Members, led by the Chief Minister, Ron Nobbs, at an Inter-Governmental meeting today. The Minister for Communications, Information Technology and the Arts, Senator Richard Alston also attended.

Important matters discussed at the meeting included Norfolk Island telecommunications, immigration laws and appeal arrangements, and co-operative arrangements for local protection of Norfolk Island's important heritage.

A key item on the agenda was the scope for Commonwealth Crown land to be transferred to the Norfolk Island residents and the Government of Norfolk Island.

Senator Macdonald announced that the Commonwealth is prepared to embark on a significant Commonwealth/Norfolk Island land initiative. To that end, Senator Macdonald advised that, in principle, he supports the withdrawal of the Commonwealth from ownership of certain Crown land, subject to a number of planning and other matters being finalised. Islanders holding residential and rural residential leases might have the opportunity to have freehold title on payment of an appropriate consideration. Rural leasehold land could be transferred to the Norfolk Island Government.

Senator Macdonald advised that a number of matters needed to be resolved with various Commonwealth portfolios, including environment and heritage agencies, before any transfers could take place.

(continued overleaf)



ANZAC Stamp Covers for Australian War Memorial

At the conclusion of the Inter-Governmental Meeting, Chief Minister Ron Nobbs presented Senator Macdonald with a framed set of Norfolk Island ANZAC Day 2000 First Day Covers for donation to the Australian War Memorial on Norfolk Island's behalf.

Our picture shows - Administrator Tony Messner (left) with Ron Nobbs and Senator Macdonald.

Inter-Governmental Meeting - continued

The Norfolk Island Government welcomed the land initiative as a major step forward in acknowledging the aspirations of the people of Norfolk Island and members of the Legislative Assembly in relation to land. The Chief Minister announced that the NIG and the Commonwealth would work together through a Land Initiative Task Force, to update the Norfolk Island Plan, implement the NI Heritage Act, complete plans of management for Reserves and introduce road, building and health codes. Both governments will contribute to the cost of the preparatory work. Interested members of the community and other stakeholders would be consulted throughout the various stages of the land initiative.

The Task Force of senior officers will report to the Commonwealth Minister and the Chief Minister as a matter of priority on the work programme.

The two governments agreed on a moratorium on lease changes, to come into effect immediately, while the work needed for the Land Initiative was undertaken.

The next Inter-Governmental meeting planned for November will review progress.

Separately, the Norfolk Island Government advised that it will make representations to the Commonwealth Government regarding future options for KAVHA and the National Park areas that are not part of the land initiative.

The Norfolk Island Government outlined the Island's telecommunication requirements into the future, and the funds likely to be needed to provide effective and up-to-date facilities. Senator Alston assured the NIG that he recognised the need for

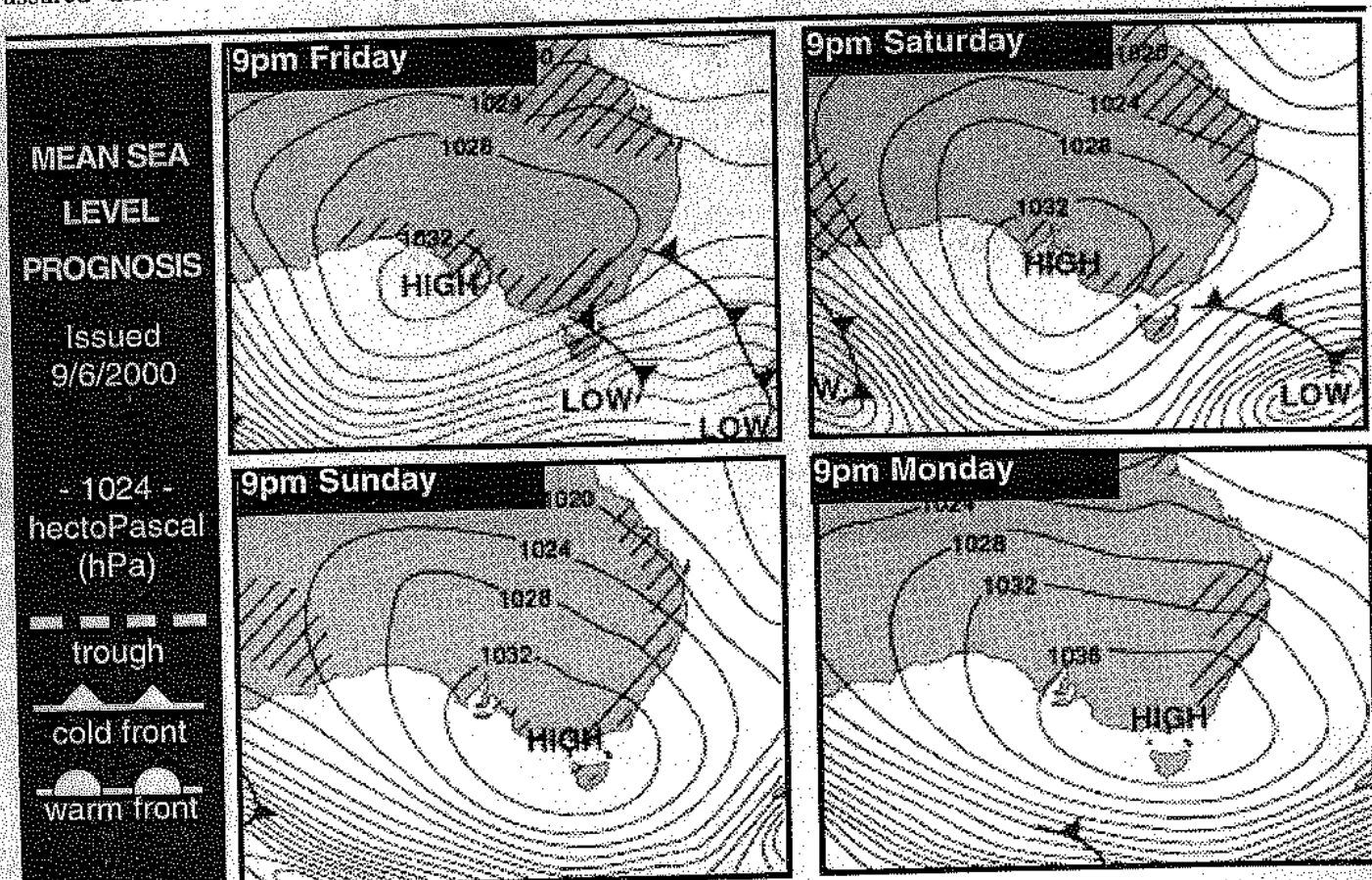
improved telecommunications services, and the unique circumstances of Norfolk Island. The \$80,000 in Networking the Nation funds provided by the Commonwealth would enable options and cost effective solutions for future telecommunications services (mobile phones, satellite services and Internet applications) to be settled. Norfolk Island could then seek further funds for design and implementation.

The two governments agreed that Internet or Interactive Gambling would continue to be an issue of great importance and a point for debate. Senator Alston outlined the Commonwealth's concern about the growth of problem gambling in Australia and the potential for interactive gambling to exacerbate the problem. Senator Alston advised that the Commonwealth's proposed moratorium would apply equally to all Australian jurisdictions. The Norfolk Island Government argued that the Norfolk Island Government's approach in granting licences was a very responsible one.

Both governments welcomed the draft Memorandum of Understanding between the NIG and the Australian Heritage Commission that would cover a co-operative approach on heritage matters on the island. Initially, the focus would be on bringing the island's heritage legislation into effect.

Both the Federal and Norfolk Island Governments share concern over the operation of the island's immigration regime. The Commonwealth's concern centres around the potential for illegal entry into the Australian mainland, via Norfolk Island. The Norfolk Island Government's concern relate to the appeal system for TEP and GEP applicants, and the

(continued overleaf)





Inter-Governmental Meeting - continued

wish to retain control over Norfolk Island immigration arrangements.

The Norfolk Island Minister for Immigration brought forward proposals to apply Australian Visa requirements to non-Australian and New Zealand entrants, and to finalise the Immigration review.

A working group on Immigration will advise on:

1. alternatives to the current immigration appeals system;
2. how best to implement the NIG's proposed approach to Australian Visas; and
3. review the Memorandum of Understanding guaranteeing Commonwealth Officers' TEP's.

Both governments agreed that this meeting continue the co-operative approach aimed at solving the immigration matters of concern to each. It also follows on from the recent visit to the island of the Commonwealth Minister for Immigration and Multicultural Affairs, Mr Philip Ruddock, MP.

Following the formal Ministers' meeting, Senator Macdonald met with all the Members of the Legislative Assembly to continue informal discussions. The informal meeting with the MLA's covered a range of topics including:

- the land initiative;
- the Commonwealth's new environment protection and bio-diversity conservation legislation, which comes into effect on 16th July;
- the proposed Norfolk Island recreational fishery;
- investigations concerning an Offshore Finance Centre; and
- GST.

Senator Macdonald and Chief Minister Nobbs said that the discussions on a range of issues affecting Norfolk Island had been extremely constructive and that they were both looking forward to progressing a range of issues prior to the next Inter-Governmental Meeting planned for November 2000.



At the conclusions of the Inter-Governmental Meeting, the Chief Minister presented Senator Macdonald with a framed set of Norfolk Island Anzac Day 2000 First Day covers for donation to the Australian War Memorial on Norfolk Island's behalf.

Senator Macdonald presented a cheque for \$71,800 to the KAVA Management Board. The fund provided for external and internal maintenance of heritage items and supplement the \$392,000 already provided this year.

Thank You

The Green Corps Team, on behalf of Wallsend Employment and Training and the Australian Trust for Conservation Volunteers would like to thank the students and teachers of the Norfolk Island Central School for their enthusiastic support on World Environment Day. We would especially like to thank Lyndal Chase for her efforts.

Our sincere gratitude also goes out to Foodland, The Gas Centre, Cascade Soft Drinks, Rotary, the Bowling Club, the Homestead Restaurant and the Royal A. & H. Society for their generous and kind support.

As a culmination to the Green Corps project we would like to thank the Norfolk Island community for opening their hearts to the team. We hope that our efforts have not only been a contribution to the unique environment of Norfolk Island, but have also paved the way for further projects in the not too far distant future.

Greg. Hardwick
Green Corps Supervisor

P.S. Your readers may also like to check out this web site - <http://unep.org/wed/celebration.htm>

We were successful in getting the details of the Norfolk Island World Environment Day celebration posted on the United Nations website.

Don't forget!

2 only!!! never to be repeated performances of

STEP BACK IN TIME

(A melodrama guide of Government House)

**NORFOLK ISLAND - CROWN LAND INSTRUCTIONS
INCLUDING POLICIES UNDER THE
CROWN LANDS ACT 1996 (NI)**

With the enactment of the *Norfolk Island Act 1979 (Cth)*, land matters including Crown land remained a Commonwealth responsibility, Crown land being administered under the *Crown Lands Act 1913*. Under section 62 of the *Norfolk Island Act 1979 (Cth)*, the Minister may "make grants or other dispositions of Crown land in the Territory".

The *Crown Lands Act 1996 (NI)* repealed the *Crown Lands Act 1913*. The administration of Crown land is now governed by the *Crown Lands Act 1996 (NI) (the Act)*.

Section 3A of the Act "applies to Crown land of the Commonwealth in respect of which the Administrator is authorised by the Minister to make grants or other dispositions, and deal with in accordance with this Act, on behalf of the Minister".

Moratorium on Lease Activity

There is to be no sub-division, transfer, conversion or issue of Crown Leases until further advice to the contrary, except in exceptional circumstances as determined by the Administrator. This moratorium is effective from and including 9 June 2000. The moratorium has been agreed to by both the Commonwealth and Norfolk Island Governments. It is required until the planning and land management regime is updated to avoid unplanned sub-division and/or associated lease related activity, which may reasonably be expected as a result of the announcement of the Commonwealth / Norfolk Island Land Initiative immediately following the inter-government meeting on 9 June 2000.

This moratorium will not affect proposals to sub-divide, transfer, convert or issue Crown leases that have been approved before 9 June 2000. The moratorium will also not affect an application to sub-divide, transfer, convert or issue a Crown lease that has been submitted to the Administrator's office prior to 9 June 2000.

Eligibility for leases/licences

The Act has given a statutory basis to the policy under the *Crown Lands Act 1913* that eligibility for a Crown lease be restricted to residents under the *Immigration Act 1980 (NI)* and to persons granted general entry permit status.

The Act also provides for the grant of a lease to a "community organisation" which is defined as "a body corporate or an unincorporated association that is not carried on for the pecuniary profit of its members, and that has as its principal purpose the provision of community service, or a form of assistance, to persons living or working on Norfolk Island, including the provision of sporting or cultural facilities". This will allow the grant of leases to organisations such as the Lions Club, Guide and Scout Centre Trust, etc.

Corporate bodies or unincorporated associations, which do not fall into the category of "community organisation", will be eligible to hold licences. Section 30 of the Act permits the grant of licences to use unleased Crown land by the Administrator. A

licence, which shall be in writing, cannot be granted for a period greater than 10 years and is not transferable.

Changeover from leases issued under the 1913 Act

Previous Crown land policy required the surrender of old style leases and the grant of new leases, with more comprehensive covenants, before approving dealings such as transfers. This policy is to continue, to encourage the changeover to leases issued under the Act.

Types of Lease

There are four lease categories:

- Residential;
- Rural Residential;
- Rural; and
- Special Purpose (which also includes "cottage industry" and business / commercial activities).

Four standard lease formats have been developed by the Office of the Australian Government Solicitor to encompass these lease categories. Care should be taken over the development and inclusion of supplementary covenants to meet specific needs, particularly in relation to Special Purpose leases, to ensure that the Crown's interests, as the lessor, are adequately protected.

It is particularly important to develop special covenants to aid in the protection of significant environmental features (such as rainforest remnants) on Crown leasehold. It will first be necessary to consult Parks Australia, the Norfolk Island Forestry Section and the local conservation organisations to identify such features. Parks Australia should also be consulted about appropriate wording for special covenants (for example, under a relevant precedent developed for Christmas Island, a lease covenant required the lessee "not to clear, degrade or damage any primary rainforest").

Lease Term

Section 7 of the Act provides that: "A lease granted under section 6 shall be for such term as is specified in the lease, being a term not exceeding 99 years".

The maximum lease terms shall be as follows:

- **99 years** - Residential, Rural Residential and Rural leases outside the Kingston and Arthur's Vale Historic Area (KAVHA).
- **28 years** - Residential, Rural Residential and Rural leases within KAVHA, and business and other Special Purpose leases outside KAVHA.
- **10 years** - business and other Special Purpose leases within KAVHA.

Lesser terms may be granted at the Administrator's discretion where it is deemed necessary (see section headed "Enforcement of Lease Covenants").

"Cottage industry" activities include craft, small business, etc. Such activities must be compatible with the principal use of the land (eg residential use, rural activities, etc) and other land uses in the area and should not require ancillary buildings (although the need for such buildings could be determined on a case by case basis). All proposals to establish cottage industries will be subject to assessment under the Norfolk Island Plan and the same consultative processes as for changes in lease purpose (see below).

Transfer of leases

Transfer of leases must be on the same basis in terms of eligibility as for the grant of leases. The only exception would be acquisition of a lease as a beneficiary of an estate. Where a person acquires a lease in these circumstances and does not meet the eligibility criteria for the grant of a lease, subletting will be permitted indefinitely after transfer.

Variation of leases/changes of lease purpose

The variation of a lease granted under the *Crown Lands Act 1913* required the surrender of the lease and the grant of a new lease, setting out the revised occupancy rights. However, the *Crown Lands Act 1996 (NI)* provides the option of varying the lease provisions and formally lodging the variation with the Registrar of Titles.

The following policies apply to changes of lease purpose:

- the conversion of Rural leases to Rural Residential to be permitted where it is the lessee's intention to build a residence on the lease (and the lessee provides a written undertaking to this effect), and provided the residence is sited so as not to detract from the rural character and provided the lease is a minimum area of 2 hectares.
- proposals for conversion must involve consultation with adjoining landholders and public comment invited by notice published in the Norfolk Island Government Gazette.
- proposals to convert other lease purposes only to be approved in exceptional circumstances after consultation with adjoining land holders and public comment invited by notice published in the Norfolk Island Government Gazette. In many cases, applications will be subject to assessment under the *Planning Act 1996 (NI)* and the Norfolk Island Plan.

Rent/Re-determination of rent

Section 23 of the Act provides that the Administrator may determine the rent payable under a lease or a lease included in a specified class of leases. Section 24 then provides that rent may be redetermined at a minimum of every 3 years.

Rental will continue to be based on a percentage of the unimproved capital value (UCV) of the land as determined by the Australian Valuation Office (the valuations provided in August 1996 will be used in determining the initial rental levels. As

application of previous policy in relation to percentages would result in rent increases, which could prove onerous to lessees, revised rentals will be phased in as follows:

- Residential/Rural Residential/Rural leases

Rental will be set at 0.5% of the UCV or \$150, whichever is the greater (setting a minimum will overcome anomalies caused by application of the rental formula alone).

- Special Purpose ("cottage industry" and business/commercial) leases

Rental will be set at 3% of the UCV but, to reduce the impact of the increases, will be phased in with 2% payable in the first year, 2.5% in the second year and 3% in the third year and each year thereafter. Again, to overcome any anomalies caused by the rental formula, the minimum rent will be the rent payable under the current lease (ie rent will not reduce under the new arrangements) and the actual rent will be the next rent level above that minimum. For example, if the minimum rent is higher than the rent calculated at 2%, the actual rent will be 2.5% effective immediately.

- Special Purpose leases - Community Organisations

Where community organisations are currently paying nominal fees for the use of Crown land, rental levels under Special Purpose leases should be determined taking into account the individual circumstances. In some cases this will mean rental at a similar nominal rate, but in other cases rental should be imposed at either the Residential/Rural Residential/Rural rate or the Special Purpose (commercial) rate depending on the use to which the land is put and whether the organisation is a non-profit one. The rental payable is a matter solely for the discretion and judgement of the Administrator.

Section 27 of the Act provides that the Administrator "may, by instrument, authorise the remission or refund, in whole or in part, of rent payable or paid by the person under this Act if the Administrator is satisfied that payment would impose undue hardship on the person". This is a matter solely for the discretion and judgement of the Administrator.

Under Section 26 of the Act, when the rental is redetermined or varied, lessees may, within 28 days after receiving the notice of rent redetermination or variation from the Administrator, serve on the Administrator a request in writing for its reconsideration. The Administrator shall, within 90 days after the receipt of the request, review the redetermination or variation to which the request relates and may confirm it or set it aside and substitute such other redetermination or variation as the Administrator considers appropriate. A person who is aggrieved by the Administrator's decision may apply to the Norfolk Island Administrative Review Tribunal for a review of the decision.

Review of licences (and variation of licence fees)

Many of the current licence holders may now be eligible for the grant of leases on the basis of being a "community organisation" as defined under the Act. It would be appropriate to notify these licensees that they may be eligible to hold a Special Purpose lease.

The opportunity should be taken to review the licence fees of any remaining licences. All existing licences include clauses that allow for the licence fee to be varied, generally on one month's notice in writing from the Administrator.

Licence Fees

In the case of licences granted to trading companies for industrial activities, the licence fee should be 5% of the UCV.

In other cases, the percentage shall be determined on the basis of the levels applied to similar activities on leases (with a minimum fee of \$150) or, for licences granted to non-profit community organisations, determined on an individual case basis.

Enforcement of Lease Covenants

The enforcement of lease covenants is crucial to effective leasehold management. Given the intention to grant 99 year leases for residential and rural leasehold outside KAVHA, a policy of strict enforcement of lease conditions must be adopted to ensure that the Crown's interests are protected.

As provided for under section 33 of the Act, an inspector may be appointed by the Administrator in writing and subject to the Act and Regulations, perform duties as the Administrator directs. The inspectors shall commence and maintain a program of regular lease inspections. No grants or "re-grants" under section 6 of the Act shall be approved unless an inspector has reported favourably on the lessee's compliance with existing lease covenants. It is particularly important that the Administrator be satisfied that lessees have complied with existing covenants before 99 year leases are granted.

Where there is any doubt about compliance with the lease conditions, a long-term lease should not be issued. Instead lessees should be given formal written notification by the Administrator of the nature of the breaches or concerns and, in the first instance, the opportunity to respond to the Administrator on proposed remedial action. If there is a need for a program of remedial work, and all parties have accepted that the program will take some time to implement, a shorter-term lease with special covenants may be issued. Those covenants shall outline the program and the period within which the work is to be completed. Progress on such work will need to be monitored to ensure compliance with the terms of the lease. Where a lessee has not satisfactorily remedied breaches, termination of the lease should be considered. Termination of a lease is a matter solely for the discretion and judgement of the Administrator.

Subletting

Under the Act, a person shall not sublet a lease without the prior written approval of the Administrator. The new subletting policies more clearly define the obligations of the lessee and recognise that the principal aim is to ensure that lease covenants are complied with and that only permitted activities are conducted on the leased land. The policies are as follows:

- (i) the Administrator shall consider each application on its merits and approve in writing a sublease where the circumstances warrant it, particularly where the lessee:

- is resident elsewhere on the Island but is unable either to reside on or work the lease;
 - is obliged to depart the Island but intends to return to the Island at some future time (and provides a written undertaking to this effect); or
 - acquires a lease as a beneficiary of an estate and does not meet the eligibility criteria for the grant of a lease, subletting will be permitted indefinitely after transfer
- (ii) lessees to formally notify the Administrator in writing of periods in excess of 3 months when they will be unable to comply with the covenants relating to residence or to working/maintaining the land, and seek either approval in writing for another party to fulfil the lease conditions, or suspension of the lease conditions for the relevant period.
- (iii) when the Administrator becomes aware that a lessee is not residing on and/or working the lease in accordance with the lease covenants, the Administrator shall advise the lessee in writing that:
- a formal written application must be submitted to the Administrator seeking approval for the sublease; and
 - if no response is received within 90 days, the Administrator may issue a direction under section 17 of the Act to comply with the terms of the lease or initiate action under section 19 of the Act to terminate the lease.
- (iv) holders of Temporary Entry Permits will be permitted to hold subleases for periods not exceeding the term of the permit.

Dual Occupancy

The Norfolk Island Plan prepared under the *Planning Act 1996 (NI)* provides for dual occupancy and, in outlining the standards for particular Development Areas, makes no distinction between freehold and leasehold.

Policy adopted under the *Crown Lands Act 1913* prohibited more than one residential dwelling on a block of land. That policy is now varied to the extent that a second dwelling may be considered on leases on which residential use is already established, provided the proposal meets the principal criteria under the Norfolk Island Plan.

In the case of Rural leases which are converted to Rural Residential (minimum size of 2 hectares) the lessee shall be notified at the time the lease is granted that only one dwelling will be permitted, and that approval will not subsequently be granted for dual occupancy.

Subdivision Policy

There is a long-standing policy against the subdivision of Crown land. This policy has been consistently adhered to, in an attempt to preserve larger areas of land and to ensure that leases (particularly rural leases) remain a viable size. While there have been some exceptions, these have generally been to adjust boundaries or for

conservation or environmental reasons; for example the recent subdivision of a Crown lease to enable significant rainforest remnants to be included in the National Park).

The *Subdivision Act 1996 (NI)* and the Planning (Subdivision) Code make no distinction between leasehold and freehold land. However, as recommended by the National Capital Authority in the Report that accompanied the Norfolk Island Plan, there is to be no change to the current policy against the subdivision of Crown land.

Termination of leases

Section 19 of the Act provides that: "Where a lessee contravenes a provision of this Act or the conditions of his or her lease, the Administrator may, by notice in writing served on the lessee, terminate the lease". That Section sets out the procedures which must be followed before reaching that stage. Sections 17 and 18 of the Act also offers the option of direct action by the Administrator to remedy breaches in terms or conditions of a lease, with the cost of any work to be a debt payable by the lessee.

Tourist Accommodation

The deregulation of the tourist accommodation industry in 1996 has led to a significant number of applications to erect new tourist accommodation units and to convert existing private and commercial premises to tourist accommodation. A number of these applications involve Crown lease portions.

As mentioned earlier, the Norfolk Island Plan, in outlining the standards for particular Development Areas, makes no distinction between freehold and leasehold land. Applications for tourist accommodation on Crown land will therefore need to be assessed against the standards outlined in the Plan.

There are a number of other factors that need to be taken into account in considering such applications:

- both the Norfolk Island and Commonwealth Governments have endorsed a policy that proposals to convert lease types (other than Rural to Rural Residential) only be approved in exceptional circumstances after consultation with adjoining land holders and public comment invited by notice published in the Norfolk Island Government Gazette;
- the Norfolk Island Plan identifies the Central Area as the main area for tourist accommodation (with tourist accommodation up to 10 units "permissible with consent" and over 10 units "permissible with consent subject to more detailed consideration"). While a maximum of 5 units may be "permissible with consent subject to more detailed consideration" in the Rural Area, any larger-scale development proposals for that Area are categorised as "ordinarily prohibited" ie, only to be permitted in exceptional circumstances; and
- the issue of a Certificate of Conditional Registration by the Executive Member under the Tourist Accommodation Act 1984.



Letter dispatched from
Canberra 24/4/01

FILE PLS. 4

Senator the Hon. Ian Macdonald

Minister for Regional Services, Territories and Local Government

Parliament House Canberra ACT 2600 Telephone 02 6277 7060 Facsimile 02 6273 7112 Email MinRegion@dotrs.gov.au

«Title» «FirstName» «LastName»
«Address1»
«City» «PostalCode»
«Country»

Dear «Title» «LastName»

The Commonwealth and Norfolk Island Governments are currently working on a joint land initiative that will see, wherever possible, Norfolk Islanders, like other Australians, owning the land they live on or where they operate a business.

At the Inter-Governmental meeting (IGM) in June 2000, I announced the Commonwealth's *in principle* agreement to withdraw from ownership of certain types of Crown land on Norfolk Island. You may recall the joint communique released after that meeting, which was published in 'The Norfolk Islander', advising "*Islanders holding residential and rural residential leases might have the opportunity to have freehold title on payment of an appropriate consideration. Rural leasehold land could be transferred to the NI Government*".

Crown leases in KAVHA, are not included in the land initiative because of their national environmental and heritage significance. The possible transfer of other types of Crown land (special purpose and commercial leases) will be considered as soon as practicable and once the first stage of the Land Initiative is in place.

At the IGM of 16 March 2001 I was able to make clear my position on the transfer of Crown leases. When the revised Norfolk Island Plan is in place along with the local heritage regime, plans of management for public reserves and road, building and health codes, it is my intention to offer residential and rural residential Crown leases as freehold title to current leaseholders.

The freehold offer will be optional, it will be on the payment of a consideration and a period of twelve months will be allowed for leaseholders to decide on the offer. While the detail of the amount involved is still to be settled, the amount will be based largely on the difference between the unimproved freehold and leasehold values. The advice of a professional, independent valuer will be sought in relation to the amount.

Any discussions between the Commonwealth and the leaseholder in relation to the offer of freehold title will be on a strictly confidential basis.

In certain circumstances where the Commonwealth has identified land as having national environmental or heritage significance, it may be necessary to provide covenants that run with the transfer of land to freehold title.



Environmental consultants will be visiting the Island in the near future to assess what, if any, national environmental significance may exist on Crown leasehold land identified for future transfer. Their report will be used to assist with identifying any mechanisms, like covenants, that may be required to ensure the future protection of these nationally significant features.

While I originally indicated that rural Crown leases could possibly be transferred to the Norfolk Island Government as leasehold, I am now considering offering these leases in freehold title to the current lessees. I understand that many rural lessees have made significant improvements to their leased land, with some rural leases being run as farms or on a commercial basis or being relied upon to supplement incomes or pensions. Some leaseholders also hold rural and rural residential leases and manage both as one property.

It has been suggested that rural leases should remain leasehold because the current Crown leasehold system offers some protection from subdivision and development of rural land. However, it is intended that the revised Norfolk Island Plan will be the primary means through which future subdivision and development on Norfolk Island should be controlled. Modern planning approaches across Australia mean that it is planning schemes, not who owns the land, which determines what may or may not be done with particular pieces of land.

I would be pleased to receive your views on whether rural leases should be:

- 1) offered in freehold title to current lessees; or
- 2) transferred to the Norfolk Island Government to manage as owner and landlord.

I would welcome your views, which for your convenience may be addressed to me but which can be delivered to the Office of the Administrator at Kingston. Mr Messner will arrange for your letters to be sent to me.

I note that, if it is decided that the freehold title in rural leases should not be transferred to current lessees, any transfer of rural leases to the Norfolk Island Government would be conditional upon the Government undertaking assurances satisfactory to the Commonwealth, in law, that preserve the existing rights of current leaseholders.

I undertake to keep the community informed of progress on this land initiative, through direct letters and articles in 'The Norfolk Islander'. I also intend to establish an inquiry facility through the Administrator's Office and, once the prerequisites are completed, the opportunity for meetings on the transfer process.

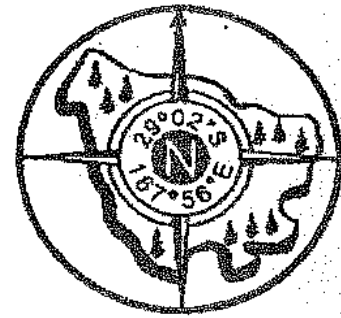
Yours sincerely



Ian Macdonald



The Norfolk ISLANDER



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Volume 36, No. 45

SATURDAY, 29th SEPTEMBER

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Minister Outlines Plans on the Freeholding of Crown Leases

The Minister for Regional Services, Territories and Local Government, Senator the Hon Ian Macdonald wrote to us on the above subject. In his letter, Senator Macdonald said:-

"In April this year I wrote to all Crown leaseholders on Norfolk Island outlining my position on the Commonwealth/Norfolk Island Land Initiative and the freeholding process. In that letter I requested the opinions of Crown leaseholders on the land transfer process and in particular their interest in having their leases transferred to freehold title. I also asked whether rural leases should be transferred to the Norfolk Island Government or offered to the individual lessees.

I thank all Crown leaseholders who took the opportunity to respond to my letter and provide feedback. The feedback is an incalculable part of this process.

The vast majority of responses favoured the transfer of all land directly to the lessee. I now intend to pursue this course of action and will be offering all rural, residential and rural residential Crown Leases (outside KAVHA) directly to existing lessees subject to a number of administrative matters being settled including the completion of the Land Initiative prerequisites.

A number of lessees sought clarification as to whether land that is only partly within KAVHA is

also excluded from my consideration of freehold. My intention is not to transfer any leases that are either wholly or partly within KAVHA in the first stage of the freeholding process. Crown leases either wholly or partly in KAVHA are not included because of the national environmental and heritage significance of KAVHA.

The possible transfer of leases wholly or partly in KAVHA, special purpose and commercial leases will be considered as soon as practicable but not until the first stage of the Land Initiative is complete.

The consideration to be paid for the transfer of Crown land to freehold title was also raised by the majority of respondents. I hope to clarify the means by which freehold title will be offered in the near future.

I understand that the land initiative prerequisites are progressing well. I look forward to hearing of their completion so that the transfer of identified Crown leases to freehold title can be further considered.

I will endeavour to keep all Crown leaseholders informed of my decisions in relation to the possible freehold transfer of crown leasehold land."

Yours etc.
Senator the Hon Ian Macdonald
Minister for Regional Services, Territories and Local
Government.



The Hon Wilson Tuckey MP
Minister for Regional Services, Territories and Local Government

«Title» «FirstName» «Title2»«FirstName2»«LastName»«LastName2»«Title3» «FirstName3»
«LastName3»
«Address1»
«City» «PostalCode»
«Country»

Dear «Title»«Title2» «LastName»«LastName2»«Title3» «LastName3»

In April 2001 you were advised of the Commonwealth/Norfolk Island joint land initiative and your views were sought on the Crown land transfer process. The joint land initiative will see, wherever possible, Norfolk Islanders, like other Australians, owning the land they live on or where they operate a business.

Thanks to an overwhelming response by leaseholders my predecessor announced in *The Norfolk Islander* that the offer of transfer for those rural, rural residential and residential crown leases (outside of KAVHA) will be made directly to leaseholders.

As outlined to you in previous correspondence, the transfer of Crown leases to freehold title is subject to the completion of a number of land initiative prerequisites. While yet to be completed, I am satisfied that the prerequisites are progressing well and I am now in a position to outline my proposed fee structure for the transfer offer, pending the completion of those prerequisites. A formal offer of transfer will be made when the prerequisites are finalised. I note that the outstanding prerequisites are matters that are the responsibility of the Norfolk Island Government.

The freehold offer will be optional, it will be on the payment of a consideration and a period of twelve months will be allowed for leaseholders to decide on the offer. The amount I have determined is based largely on the difference between the unimproved freehold and leasehold values of your property and reflects the Commonwealth's reversionary interest in the Crown lease. The advice of the Australian Valuation Office was sought in relation to this amount. Accordingly, I propose that the transfer fee will be equal to 10% of the 1996 Unimproved Capital Value plus an instrument fee of \$200 per transfer.

According to information provided by the Norfolk Island Government you are the leaseholder for «Portion». Our records indicate that the 1996 Unimproved Capital Value for this property is \$«M_96_val». As already mentioned the proposed transfer fee for this portion will be 10% of the 1996 valuation plus a \$200 instrument fee per transfer.



I am proposing a number of payment options including the following:

- a maximum period of five years for time payment;
- a minimum \$500 annual payment for time payment;
- current lease payments cease on acceptance of conversion offer; and
- a 10% discount will be allowed for up front payment

When deciding whether to transfer a lease to freehold title I will be taking into account whether:

- it is in the Commonwealth's interest to allow the lease to be converted;
- you are currently in compliance with your lease conditions; and
- your lease payments are not in arrears.

Title will be issued on final payment of the transfer fee and the \$200 instrument fee.

If, however, after 12 months from the date of my formal offer of transfer you have not taken up that offer, unless exceptional circumstances apply, in order to sell or subdivide your leasehold land the land must first be converted to freehold title. In these instances, a conversion fee based on 10% of the Unimproved Capital Value as determined at the time of sale or subdivision will be payable. The \$200 instrument fee and the requirement relating to compliance with lease payments and conditions will continue to apply. Options for time payment and up front discounts, however, will not be available in these cases.

I wish to reiterate previous advice given to you that in certain circumstances where the Commonwealth has identified land as having national environmental or heritage significance, it may be necessary to provide covenants that run with the transfer of land to freehold title. On land that has significant environmental values I may wish to canvass options with you for the protection of those values.

Officers of my Department will be available on Island to discuss any of these details on the transfer process with you during the week beginning 15 April 2002. For an appointment to discuss the transfer process please contact the Office of the Administrator on telephone, 22512. Any discussions between the Commonwealth and the leaseholder in relation to the offer of freehold title will be on a strictly confidential basis.

I encourage you to take the opportunity to discuss the possible freeholding of your lease with officers from my Department. I would also welcome your comments on the transfer process which, for your convenience, may be addressed to me, but which can be delivered to the Office of the Administrator at Kingston. The Administrator will arrange for your letters to be sent to me.

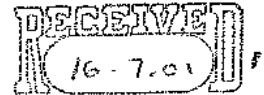
I look forward to the Commonwealth/Norfolk Island land initiative prerequisites being finalised so that a formal offer of transfer can be made to those Crown leaseholders wishing to take up my offer of freehold title.

Yours sincerely

Wilson Tuckey MP



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GPO Box 594
CANBERRA ACT 2601

ATTENTION: Maureen Ellis

CROWN LEASEHOLD LAND - NORFOLK ISLAND
Your Reference X2001/0271 dated 22 March 2001

Your request for advice regarding valuation applicable to the Crown Leasehold land, has been considered by this office and our response is attached for your consideration.

Should you require further information, Mr Armstrong can be contacted on 6216 8126.

John Armstrong
A/g Regional Manager

12 July 2001



CROWN LEASEHOLD LAND

NORFOLK ISLAND

REQUEST

To advise Self Governing Territories Section on appropriate rates for capitalisation of rental returns for the various classes of Crown leases on Norfolk Island.

Research into the property market in Canberra and surrounding district indicates the following gross rental returns are currently being achieved for the following class of properties:

Residential	6 - 7%
Rural Residential	5%
Rural	3 - 4%
Commercial	8 - 12%

Enquiries of the property market on the south coast of NSW indicated the following gross rental returns were being achieved.

Residential	5 - 6%
Rural Residential	5%
Rural	6%

It is also noted that it is current policy with A.C.T. rural residential leases less than 16 hectares, that a capitalisation rate of 6% over 99 years be adopted for calculation of rental.

From our research into the property market it is suggested the following capitalisation rates would be reasonable for Norfolk Island.

Residential	6%
Rural Residential	5%
Rural	4%
Special Purpose: Commercial	10%
Non Commercial	3%

It is noted that the formula currently being considered in assessing the Commonwealth interest whereby the current rental is capitalised at a rate reflecting a rate of return attributable to the use of the land produces an anomalous situation whereby a less valuable use will reflect a higher Commonwealth interest than a more valuable use.

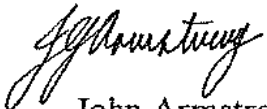
As the bulk of the leases fall within the residential, rural residential and rural categories a capitalisation rate of 5% for all these leases could be considered. Differences in value between these categories has already been identified in the rentals through the U.C.V.'s which are based on the respective permitted uses and characteristics of these particular leases.

The Commonwealth interest in the special purpose leases could be assessed at 10% of the U.C.V.

It is noted that applying a capitalisation of 5% to the formula for those leases with a U.C.V. greater than \$30,000 produces a value of the Commonwealth interest in the order of 10% of the 1996 U.C.V.

It is also noted that applying the 5% formula to the actual U.C.V. of these leases with a U.C.V. less than \$30,000 also produces a value of the Commonwealth interest in the order of 10% of the 1996 U.C.V.

Applying the above suggested methods produces a value of the Commonwealth interest in the leases in the order of 10% over the whole portfolio and would produce a consistent result for all leases. It is also supported by market evidence.



John Armstrong
Senior Valuer

12-7-01



The Hon Wilson Tuckey MP
Minister for Regional Services, Territories and Local Government

The Hon Ivens F Buffett MLA
Minister for Land and the Environment
Norfolk Island Legislative Assembly
NORFOLK ISLAND 2899

Dear Minister

The joint Commonwealth/Norfolk Island Government Land Task Force met on 25 March 2002 to discuss progress on the land initiative prerequisites and to discuss the terms of my freehold offer. I am advised that the Task Force discussed the possibility of removing the Health Code as a prerequisite to the transfer of Crown land to freehold title. The Task Force has proposed that instead of a Health Code that the completion of a Building Code be included as a formal land initiative prerequisite. I agree with this approach.

Officers of my Department have expressed some concerns as to the breadth of issues covered by the Health Code currently being drafted by Norfolk Island Administration and their relationship to the land initiative. There would appear to be a number of issues in the draft Health Code, such as the registration of prescription drugs, that have little impact on the ability of your Government to deliver a robust land management system. While the development of a comprehensive Health Code is important, the inclusion of a Building Code, which I understand is nearing completion, would appear to be more in keeping with the intent of the land initiative. I do however encourage you to continue to develop a Health Code in the short term to address the broader health issues currently being canvassed.

I am advised that a Health Code was originally included as a prerequisite to address the Commonwealth's concerns over water management and water quality issues on the Island. With the introduction of a new Norfolk Island Planning Act, I understand that it would be possible to adopt a Development Control Plan to cover water issues, such as on-site effluent disposal, water storage, runoff controls and the like. Given the importance of water as a resource on Norfolk Island I suggest that a Development Control Plan covering water issues also becomes a prerequisite of the land initiative. I would be pleased to hear your views on this matter.

Another matter raised by the Task Force is the need for Plans of Management for public reserves within the Kingston and Arthur's Vale Historic Area (KAVHA). I confirm that Plans of Management for all reserves within KAVHA are a prerequisite of the land initiative and must be completed prior to the transfer of any Crown leasehold land.

I am pleased to hear that the land initiative prerequisites are progressing well. The replacement of the Health Code prerequisite for a Building Code and Water Development

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Control Plan for the Health Code is in keeping with the joint land initiative goal of ensuring a robust land management system prior to transfer of Crown land to freehold title. I reiterate that a firm offer of transfer to Crown leaseholders will not be made until the agreed prerequisites are completed.

I understand that the inclusion of a Building Code as a prerequisite and the drafting of a Development Control Plan for water issues were canvassed with you when you met with the Land Task Force. I would be pleased if you would confirm your formal agreement to the changes to the land initiative prerequisites as outlined above.

I am copying this letter to your colleague the Chief Minister, the Hon Geoff Gardner MLA, and to the Chief Executive Officer of the Norfolk Island Administration.

Yours sincerely

Wilson Tuckey MP