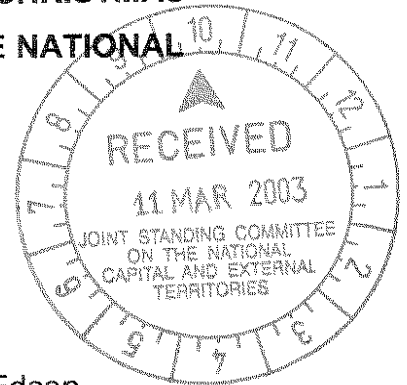


**REVIEW OF THE ANNUAL REPORTS OF THE DEPARTMENT OF
TRANSPORT AND REGIONAL SERVICES 2000-01 AND THE
DEPARTMENT OF THE ENVIRONMENT AND HERITAGE 2000-01
(AUSTRALIA'S EXTERNAL TERRITORIES)**

**SUPPLEMENTARY SUBMISSION FROM THE SHIRE OF CHRISTMAS
ISLAND TO THE JOINT STANDING COMMITTEE ON THE NATIONAL
CAPITAL AND EXTERNAL TERRITORIES**

11 March 2003



SUMMARY

The Shire of Christmas Island (SOCI) was requested by Sara Edson, Research Officer, JSC NCET, to submit a supplementary submission due to the limited time allowed for Mr. Gareth Dunt, Chief Executive Officer, SOCI, to give evidence at the Public Hearing on the 11 March 2003. The JSC NCET had also requested that the Shire respond to questions relating to the following:

- New mining leases for Christmas Island Phosphates (CIP);
- The need, or otherwise, for a ward system for local government on Christmas Island (C.I.);
- The Casino Resort reopening; &
- Insurance availability on C.I.

New mining lease for CIP

The council strongly believes that extending the life of the mine whilst other industries are developed is critical to the island economy. The mine currently employs approximately 150 permanent and part time staff and is the largest employer on island. Whilst there have been previous attempts to develop other major industries to support the island economy e.g. Christmas Island Resort, they have not been successful. At the current production rate of the mine it is expected that the mine will close in 2007. However the directors of the mine could decide, if new leases are not agreed, to increase the production rate, maximise their profit and therefore shut the mine prior to 2007.

If the mine closes in the near future due to the new leases being refused then this would have a severe, if not catastrophic, impact on the local economy. The Shire Council is supportive of the nine (9) current applications for mining outside of the C.I. National Park.

Ward System

This issue has been raised with Council previously and is not supported. Discussions with the Western Australia Department of Local Government has also been undertaken and the view is that a ward system would in fact promote tension and racial separation within the community whereas the current system promotes unity within the community. From a practical perspective it would also be very difficult to implement a ward system and meet the legislative requirements for wards under the Local Government Act 1995.

Christmas Island Resort (CIR)

The Shire Council maintains its position that the CIR should re-open as a Casino Resort. The Council was heartened by the JSC NCET report of September 2001 titled 'Risky Business' and agreed with the majority of the recommendations. The CIR was the major employer in CI during its operation and created further employment by attracting other business to come to the island in support of the CIR operation.

The CIR was designed as a hotel casino and the promotional material used the following wording to clarify the availability of the casino licence:

The Commonwealth Government is prepared to consider and application for a casino licence in accordance with the relevant legislation. The applicant and its associates must satisfy strict financial, ethical and business reputation conditions.

The Shire Council and the community always considered that the resort would be sold so that it would operate as a hotel casino. The recent statements by the Commonwealth that it would not consider a casino licence are surprising. It seems that, whilst every State and the Northern Territory have at least one casino, the Indian Ocean Territories should no longer have this opportunity. It is even more surprising considering that the Commonwealth originally saw CIR as the future of the island economic base.

The lack of maintenance and refurbishment of CIR is also a concern. This property has been managed by Sofstar Pty Ltd since its sale in 2000 and, whilst there has been previous media statements about refurbishment and reopening as a hotel casino, very little has occurred.

Every effort should be made by the Commonwealth to re-open the CIR as a hotel casino.

Insurance Update

The situation with the availability of public liability, house and contents insurance is varied and complex. Some organisations, due to their buying power, are able to maintain and renew all required insurances. The residential sector has found it difficult to obtain due to several factors e.g. the age of the property and whether the owner has building certification, whether mortgaged, whether security systems are in place and locality. Other owners have sourced insurance but cannot afford to pay the increased premium.

Not for profit organisations are also finding it very difficult to source and pay for public liability insurance. Comprehensive vehicle insurance is only available for luxury cars e.g. BMW, Rover, Mercedes etc.

Clarification of the 'Crown'

Section 35 of the Town Planning & Development Act 1928 (WA)(CI) states:

"Except where otherwise provided, this Act shall bind the Crown."

Section 5 of the Interpretation Act 1984 (WA)(CI) defines Crown as *"the Crown in the right of the Commonwealth"*.

This means that the Commonwealth must comply with the Town Planning & Development Act 1928 (WA)(CI).

However, Section 32 of the Town Planning & Development Act 1928 (WA)(CI) states:

"Nothing in this Act shall be deemed to interfere with the right of Her Majesty, or the Governor, or the Government of the State or a local government to undertake, construct, or provide any public work, and to take land for the purposes of that work: Provided that --

(a) so far as, in the interests of the public, it is reasonably possible, every such work shall be undertaken, constructed, or provided, and all land taken for the purpose of such work shall be taken, in such a manner as to be in keeping with the design and intent of every town planning scheme, and so as not to destroy the amenity of any town planning scheme made and approved under this Act and having effect in the district where, and at the time when, such work is undertaken, constructed, or provided, or such land is taken; and

(b) the responsible authority shall be consulted at the time when a proposal for any public work, or for the taking of land therefore, is being formulated to ensure that the undertaking, construction, or provision of, or the taking of land for, the work will comply with paragraph (a). "

Therefore, if the Commonwealth wish to carry out public works then they are not required to comply with the requirement to obtain Planning Approval so long as they act, as far as practicable, within the intent of the legislation. The term public work is generally regarded as that which conveys the sense of community benefit or community utility, something done for the common good, and done by the body charged with furthering the common good in one or more particular aspects.

The Commonwealth may be having trouble understanding this because where there is a 2nd tier of Government (ie: State/Territory) these types of provisions apply to that level of Government not the Commonwealth. Here, however, due to there being no 2nd tier of Government, and for all intents and purposes the Commonwealth is the "State", they are bound.

The Department of Immigration Multicultural & Indigenous Affairs have recently stated that the 'Crown' in Section 35 of the Town Planning & Development Act 1928 (WA)(CI) is the State Government and therefore they are not bound. The Department of Territories & Regional Services have stated

that they are the 'Crown' with respect to Section 35 of the Town Planning & Development Act 1928 (WA)(CI).

It would be beneficial to all parties if the definition of the 'Crown' could be clarified and agreed. Any assistance that the JSC NCET could provide would be appreciated.

The Shire Councillors and Officers will be pleased to provide any further information to the Committee if required.

Yours sincerely

Councillor Foo Kee Heng
Deputy President, Shire of Christmas Island