Report on Public Consultations

Draft Terms of Reference for the Christmas Island Strategic Assessment

April 2019
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<tr>
<td>The Department</td>
<td>Department of Infrastructure, Regional Development and Cities</td>
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<tr>
<td>DoEE</td>
<td>Department of the Environment and Energy</td>
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<tr>
<td>SA</td>
<td>Strategic Assessment</td>
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<td>SAR</td>
<td>Strategic Assessment Report</td>
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<tr>
<td>ToR</td>
<td>Terms of Reference</td>
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1. Introduction

1.1 Overview

On 14 February 2019, the Hon Sussan Ley MP, Assistant Minister for Regional Development and Territories, entered into an Agreement (the Agreement) with the Hon Melissa Price MP, Minister for the Environment, to undertake a Strategic Assessment of Christmas Island under section 146 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act). The Strategic Assessment will support economic activity on Christmas Island by considering future land uses and development opportunities in an open and transparent manner, providing greater certainty to stakeholders, and ensuring clarity about environmental approval arrangements for up to the next 50 years. At the same time, it will protect Christmas Island’s unique environment.

As required by the EPBC Act and Clause 4.2 of the Agreement, the Department of Infrastructure, Regional Development and Cities (the Department) made available for comment, by notice, the draft Terms of Reference for the Strategic Assessment Report at Appendix A. The draft Terms of Reference were available for public comment from 15 February to 29 March 2019, a period of 42 calendar days (as specified by the Minister for the Environment). The notice and draft Terms of Reference were made available in English, Chinese and Malay. As required by the Agreement, the notice was:

a) posted on the Department’s website on 15 February 2019;
b) published in The Australian and The West Australian on 21 February 2019;
c) published in The Islander on 1 March 2019; and
d) made available electronically on the Department of the Environment and Energy’s website.

A media release from Assistant Minister Ley was also distributed via the Christmas Island Community Bulletin network on 15 February 2019, notifying the community of the availability of the draft Terms of Reference and the public comment period. Interested parties could view the draft Terms of Reference, make a written submission or request further information from the Department’s website.

The Department emailed stakeholders with an interest in environmental matters on Christmas Island to inform them of the availability of the draft Terms of Reference for comment.

The Department also conducted face-to-face consultations on Christmas Island and in Perth from 12 to 21 March 2019. The Department emailed stakeholders, including community organisations, government agencies, businesses and potential investors, to notify them of the availability of the draft Terms of Reference for comment, and provide an opportunity to arrange a face-to-face meeting, if desired.

A Community Bulletin from Mrs Natasha Griggs, Administrator of Christmas Island and the Cocos (Keeling) Islands, was distributed on 6 March 2019, advising of the opportunity for face-to-face consultations on Christmas Island and inviting the community to arrange individual meeting times or attend a ‘drop-in’ session. This ‘drop-in’ session was open to the general public and held at the Administrator’s Offices on Christmas Island on 13 March 2019 from 4.00-6.00pm.
The purpose of public consultation was to seek views from stakeholders on the draft Terms of Reference and provide the opportunity for interested stakeholders to ask questions about the Strategic Assessment. Stakeholders were also encouraged to submit written comments.

The Department appreciates the input of all those who prepared submissions and attended consultation meetings to provide their views on the Strategic Assessment.

1.2 Purpose of this report

Under the Agreement, the Department is required to submit to the Minister for the Environment, a copy of all public comments on the draft Terms of Reference, a summary of whether and how these comments have been taken into account, and the revised Terms of Reference. The Minister for the Environment considered all public comments before agreeing to the revised Terms of Reference.

This report summarises the submissions received and how these submissions were considered in revising the draft Terms of Reference. The Department notes that some submissions requested not to be published and are therefore not explicitly referenced in this summary.
2. Public Consultation

2.1 Face-to-face Meetings
The Department met with representatives from local businesses, community organisations, government and potential investors, as well as Christmas Island residents.

2.2 Written Submissions
Nine written submissions were received, from businesses, community organisations, government, environmental groups, potential investors and Christmas Island residents.

A copy of submissions that agreed to be published are at Appendix B. Four were commercial-in-confidence and their release was not agreed.

2.3 Main issues raised
Overall, respondents supported the Strategic Assessment, recognising the opportunity it presents to protect the local environment while providing certainty to developers, supporting economic activity and diversity on Christmas Island. Submissions raised a number of issues relevant to the Terms of Reference:

- a reference group comprised of members of the Christmas Island community should be established to provide local input into the Plan;
- information gaps regarding locations and population sizes of protected matters on Christmas Island should be addressed;
- the Report should discuss economic and social impacts of the Plan;
- the Terms of Reference should clearly state that the Strategic Assessment will not affect existing lawful land uses;
- the Terms of Reference should clarify the interaction between the Strategic Assessment and local government planning instruments; and
- the Report should consider and ensure compatibility with the existing legislative framework for planning, development control and environmental protection.

These matters have been considered and are reflected in revisions to the Terms of Reference.

The majority of other matters raised did not require changes to the Terms of Reference, as they already provide for those issues to be considered in the SAR or are related to the development of the Plan.

All matters and outcomes of the Department’s assessment are set out in the next Section.
### 3. Analysis of written submissions

#### 3.1 Suggested changes to the Draft Terms of Reference

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<tr>
<th>Submission number(s) to which comment relates</th>
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| 4                                             | ToR should clarify that the SA will not affect existing lawful land uses. | ToR amended.  
New clause added (1.4) specifying that the Report must describe how the Plan relates to other legislative requirements. This description will enable all parties to understand key rights and obligations.  
Clause 1.5 expanded to clarify that the SA will not affect approvals made under applied WA legislation. |
| 4                                             | Consideration of social and economic drivers should be informed by local government and the local and business community. A reference group should be established to provide input into the Plan. | ToR amended.  
The introductory paragraphs of the ToR now provide for a reference group to provide certainty that the Plan will be developed with input from the community (under the description of Christmas Island Strategic Assessment Policy, Plan or Program). |
| 3                                             | ToR should clarify the interaction between the SA and local government planning instruments. | ToR amended.  
A new clause has been added (1.4) specifying that the Report must describe how the Plan relates to other legislative requirements. |
| 3, 4                                          | SAR should consider and ensure compatibility with the existing legislative framework for planning, development control and environmental protection. | ToR amended.  
A new clause has been added to the ToR (1.4) specifying that the Report must describe how the Plan relates to other legislative requirements.  
Clause 1.5 has been expanded to clarify that the SA will not affect approvals made under applied WA legislation. |
| 4                                             | The Plan should be aligned with the local government Land and Economic Futures Charter. | ToR not amended (out of scope).  
The Charter is broader than the SA. References to the SA aligning with local planning instruments are captured by the new clause 1.4, which specifies that the Report must describe how the Plan relates to other legislative requirements. |
| 4                                             | The Plan should be scoped to deliver “enhancement” of local planning instruments and | ToR amended.  
The Department understands “enhancement” to mean the Plan will build on existing planning schemes, environmental |
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<td>applied WA legislation, incorporate mining requirements and obligations and facilitate the adaptation of the processes of land use management in response to the need to introduce new economic development opportunities within the local planning area.</td>
<td>protection measures and statutory land use management processes in order to provide economic development opportunities. A new clause has been added (1.4) specifying that the Report must describe how the Plan relates to other legislative requirements, which includes existing planning schemes, environmental protection measures and statutory land use management processes. A new clause was added (4.9) to confirm that the Report must discuss the social and economic impacts of the Plan, taking into account the principles of ecologically sustainable development. This will include a discussion of the relationship between the local planning framework and economic development opportunities.</td>
<td>ToR amended (note clause and text) ToR not amended (will be considered in SAR or Plan/out of scope/ other)</td>
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<td>SAR should provide spatial, policy and possible regulatory details associated with the social and economic purpose of the Plan.</td>
<td>ToR amended. A new clause was added (4.9) to confirm that the Report must discuss the social and economic impacts of the Plan, taking into account the principles of ecologically sustainable development. The Department notes that the Plan is intended to consider spatial, policy and regulatory details associated with social and economic aspects.</td>
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<td>The Plan should be developed according to the Enquiry by Design Workshop Process, with guidance from the WA Government.</td>
<td>Additional detail has been added in the introductory paragraphs of the ToR (under the description of Christmas Island Strategic Assessment Policy, Plan or Program) providing for a reference group to provide certainty that the Plan will be developed with input from the community (a key element of the Enquiry by Design Workshop Process). The Department notes that under clause 5.7 of the Agreement, the Department will consult relevant stakeholders, including the Shire of Christmas Island, the Western Australian Government and non-government stakeholders on the development of the Plan.</td>
<td>ToR amended.</td>
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<td>4</td>
<td>Development of the Plan and Report should be subject to a program prepared in collaboration with stakeholders, with a fixed timeline.</td>
<td>ToR amended (note clause and text). ToR not amended (will be considered in SAR or Plan/out of scope/other). Under clause 5.7 of the Agreement, the Department agrees to consult relevant stakeholders, including the Shire of Christmas Island, the Western Australian Government and non-government stakeholders on the development of the Plan. Expert advice will assist the Department to determine the required timeframes. The Department will provide regular updates on next steps and timing on its website, through the reference group, and via the Community Bulletin network.</td>
</tr>
<tr>
<td>4</td>
<td>A map delineating land subject to local government planning instruments should be included in the ToR.</td>
<td>ToR not amended (will be considered in SAR). A map of the SA area is included in the Agreement, which is available on the Department of Infrastructure, Regional Development and Cities’ website. Local government planning instruments will be considered during the development of the Plan. The addition of clause 1.4 confirms that the SAR will describe how the Plan relates to other relevant legislative instruments.</td>
</tr>
<tr>
<td>4</td>
<td>The Department, in consultation with the stakeholders, should establish public documents to be reviewed in developing the Plan.</td>
<td>ToR not amended (out of scope). There will be opportunities for interested stakeholders to provide comment on the draft SAR and draft Plan. The reference group will provide an opportunity for community input to the documents to be considered in the development of the Plan. The Plan and SAR will also be subject to statutory public consultation periods. Per clause 10 of the Agreement, information will be accessible and usable by the community, business, government and other stakeholders. This accessibility of information will support stakeholders in providing informed feedback.</td>
</tr>
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<td>4</td>
<td>The Plan should be endorsed by local government to ensure compliance with the legislative and policy framework.</td>
<td>ToR not amended (out of scope). The Department will work with local government in the development of the Plan and SAR, and will consult the WA Government regarding applied legislation, if required. The Shire of Christmas Island is expected to be a member of the reference group. Per clause 8 of the Agreement, the Minister for the Environment may endorse the Plan.</td>
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<td>7</td>
<td>ToR should clarify details of heritage related issues.</td>
<td>ToR not amended (will be considered in SAR). As heritage is a matter protected under Part 3 of the EPBC Act, the ToR already provide for relevant heritage related issues to be considered in the SAR.</td>
</tr>
<tr>
<td>6</td>
<td>Considerable risks with an anticipated 50-year lifespan in the context of climate change.</td>
<td>ToR not amended (will be considered in the SAR). Clause 3.3 of the Agreement provides for a duration of the SA of up to 50 years. The Plan and Report will identify an appropriate duration on the basis of identified opportunities for sustainable development and the assessment of the impacts of these development opportunities on the environment.</td>
</tr>
<tr>
<td>6</td>
<td>The ToR should mandate explicit consideration of whether the Plan is suitable for maintaining protected matters.</td>
<td>ToR not amended (other). The SAR will assess the suitability of the Plan for the protection and long-term management of the environment protected under Part 3 of the EPBC Act.</td>
</tr>
<tr>
<td>6</td>
<td>The ToR should require the draft Christmas Island Biodiversity Conservation Plan to be updated and adopted, and support the SA.</td>
<td>ToR not amended (will be considered in the SAR). The SAR will include identification of information gaps, the need for any further studies, and measures to address information gaps (per clause 3.2.7 of the ToR). This information, as well as the scientific data that is used to develop the SAR, can be utilised by other regulators to inform guidance documents, strategies or plans. Finalisation of the SAR is not dependent on finalisation of the Christmas Island Biodiversity Conservation Plan.</td>
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<td>6</td>
<td>The SA should explicitly consider additional areas for inclusion in the National Park, with a focus on critical habitat for threatened species.</td>
<td>ToR amended. Clause 5.2.2 of the ToR has been amended to confirm the additions to the Christmas Island National Park will be considered in the SAR and Plan. Habitat will also be considered in the description of the nature of the environment (as part of clause 3.1.4 of the ToR), description of the landscape containing key environmental matters (clause 3.1.5 of the ToR) and areas likely to be important for maintaining ecological processes (clause 3.2.3 of the ToR). The Plan will clearly identify and address protected matters by applying the ‘avoid, mitigate, offset’ hierarchy (clause 5.6 of the Agreement). This may include expansion of the National Park, if appropriate. The Christmas Island National Park Management Plan 2014-2024 includes commitments to determine priorities for actions to conserve native plant and animal species, and implement or contribute to off-park conservation actions, particularly for threatened species.</td>
</tr>
<tr>
<td>6</td>
<td>The ToR should ensure uncertainty around populations of protected matters and their locations is addressed.</td>
<td>ToR not amended (will be considered in the SAR). The SAR will include identification of information gaps, the need for any further studies and measures to address information gaps, per clauses 3.2.7 and 6.1.1 of the ToR.</td>
</tr>
<tr>
<td>6</td>
<td>The ToR should rule out identifying any new areas for phosphate mining.</td>
<td>ToR not amended (other). Mining is a potential development type under clause 3.4 of the Agreement. Mining is a key contributor to the Christmas Island economy and one of the major employers. The Department cannot preempt the outcome of the SAR and Plan. Under clause 8.3 of the Agreement, the Minister for the Environment will, when determining whether to endorse the Plan, consider the extent to which the Plan meets the objectives of the EPBC Act. Classes of action will only be approved if impacts on protected matters are adequately addressed, per the Agreement, the SAR and the endorsed Plan.</td>
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<td><strong>ToR amended (note clause and text)</strong>&lt;br&gt;<strong>ToR not amended (will be considered in SAR or Plan/out of scope/ other)</strong></td>
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<td>6</td>
<td>Ecotourism should be clearly defined.</td>
<td>ToR not amended (will be considered in SAR). The SAR will provide details about the key elements of the Plan, including the actions likely to be taken under the Plan, per clause 2.1.2.c of the ToR. The Plan and SAR will refine definitions of development types, including for ecotourism.</td>
</tr>
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<td>7</td>
<td>Land with high environmental value, including all primary rainforest, must be excluded from development.</td>
<td>ToR not amended (will be considered in the SAR). The Department cannot preempt the outcome of the SAR and Plan. The Plan will clearly identify and address protected matters by applying the ‘avoid, mitigate, offset’ hierarchy (clause 5.6 of the Agreement). This will address consideration of excluding land with high environmental value from development.</td>
</tr>
<tr>
<td>7</td>
<td>The most up-to-date environmental information should be applied throughout the period the SA is in operation.</td>
<td>ToR not amended (will be considered in the SAR). Clause 3.2.4 and 3.2.7 of the ToR require the use of current data, projected trends in protected matters, identification of information gaps, and measures to address information gaps. Under clause 7.1 of the ToR, the SAR must include an Assurance and Implementation Framework, which will ensure the results of monitoring will be used to understand the effectiveness of conservation outcomes for protected matters and that new information relating to protected matters may be assessed and accounted for in implementing the Plan.</td>
</tr>
<tr>
<td>7</td>
<td>Cumulative impacts should be considered in developing the SA.</td>
<td>ToR not amended (will be considered in the SAR). The ToR requires all impacts to be considered, including cumulative impacts (clause 3.2).</td>
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<tr>
<td>7</td>
<td>The most up-to-date development plans should be taken into account throughout the period the SA is in operation.</td>
<td>ToR not amended (other). The Plan is intended to cover all likely development types for up to the next 50 years. Development of the Plan will be in consultation with stakeholders, including the local reference group (introductory section of the ToR). The ToR provide for adaptive management under the Assurance and Implementation Framework to ensure new information relating to protected matters is accounted for during implementation (clause 7.1.3) and will set out circumstances and procedures that may result in review, modification or abandonment of the Plan (clause 7.2).</td>
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<td>7</td>
<td>Delays in obtaining heritage approvals.</td>
<td>ToR not amended (already covered in the SAR). The SAR will consider heritage matters as these fall within the definition of Part 3 protected matters. Once approved, the Plan will remove the need for individual assessments under the EPBC Act where proposed projects align with the Plan and are within an approved class of action.</td>
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<td>7</td>
<td>Assistance should be provided for businesses seeking heritage approvals.</td>
<td>ToR not amended (out of scope). The Strategic Assessment is intended to provide greater upfront certainty regarding approvals under the EPBC Act. Impacts relating to heritage matters protected under the EPBC Act will be considered (clause 3.1.7 of the ToR).</td>
</tr>
<tr>
<td>7</td>
<td>Community value should be considered in assessing bids for Crown land.</td>
<td>ToR not amended (out of scope). This matter is relevant to a separate initiative of the Australian Government, and is not relevant to the strategic assessment process.</td>
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<td>9</td>
<td>Concern about 50-year timeframe in relation to ecological sustainability.</td>
<td>ToR not amended (will be considered in the SAR). Clause 3.3 of the Agreement provides for a duration of the SA of up to 50 years. The Plan and Report will identify an appropriate duration on the basis of identified opportunities for sustainable development and the assessment of the impacts of these development opportunities on the environment. The Plan will also include adaptive processes to incorporate new information and management techniques to ensure the environment is protected over the life of the Strategic Assessment.</td>
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<td>9</td>
<td>Inclusion of areas of significant environmental value in the Christmas Island National Park.</td>
<td>ToR amended. Clause 5.2.2 has been amended to state that additions to the Christmas Island National Park will be considered. Habitat will also be considered in the description of the nature of the environment (clause 3.1.4 of the ToR), description of the landscape containing key environmental matters (clause 3.1.5) and areas likely to be important for maintaining ecological processes (clause 3.2.3). The Plan will clearly identify and address protected matters applying the ‘avoid, mitigate, offset’ hierarchy (clause 5.6 of the Agreement). This may include expansion of the National Park, if appropriate.</td>
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<td>The Christmas Island National Park Management Plan 2014-2024 includes commitments to determine priorities for actions to conserve native plant and animal species, and implement or contribute to off-park conservation actions, particularly for threatened species.</td>
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<td>9</td>
<td>Mechanism to ensure proposed development meets legislative requirements, community development goals, planning requirements and commercial aspects.</td>
<td>ToR amended. A new clause has been added to the ToR (1.4) specifying that the Report must describe how the Plan relates to other legislative requirements. The SAR will provide details about the legal and administrative frameworks to implement and ensure compliance with the Plan as required by clause 2.2.c of the ToR.</td>
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<td>9</td>
<td>Inclusion in SA parameters of reasons for not approving PRL’s exploratory drilling proposal (EPBC 2016/7779).</td>
<td>ToR not amended (will be considered in the SAR). Mining is a potential development type under clause 3.4 of the Agreement. The ToR provide for identification and assessment of potential impacts on protected matters from likely development activities, including mining, in clause 4.3.</td>
</tr>
<tr>
<td>9</td>
<td>The Strategic Assessment must not be used as a method to enable exploration leading to clearing primary rainforest, or to enable new mining leases in rainforest based on environmental offsets or otherwise.</td>
<td>ToR not amended (will be considered in the SAR). The Department cannot preempt the outcome of the SAR and Plan. The Plan will clearly identify and address protected matters by applying the ‘avoid, mitigate, offset’ hierarchy (clause 5.6 of the Agreement).</td>
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<td>9</td>
<td>Environmental impacts of mass tourism and suitability of areas for types of development.</td>
<td>ToR not amended (will be considered in the SAR). Clause 4.3 of the ToR provide for identification and assessment of potential impacts on protected matters from likely development activities, including tourism, residential and agriculture. The Department notes the Plan is intended to identify areas suitable for development.</td>
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<td>9</td>
<td>It is essential the Strategic Assessment enables decision-makers to consider the recovery plans, threat abatement plans, conservation advices and any other environmental instrument</td>
<td>ToR not amended (will be considered in the SAR). The SAR is required to consider all relevant statutory documentation, including recovery plans, threat abatement plans and conservation advices (clause 4.7). Under clause 7.1, the SAR must include an Assurance and Implementation Framework, which will ensure the results of monitoring will be used to understand the effectiveness of</td>
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<td>in force at the time of application.</td>
<td>ToR amended (note clause and text) ToR not amended (will be considered in SAR or Plan/out of scope/other)</td>
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<tr>
<td>9 Engagement with stakeholders with a primary focus on protecting the environment.</td>
<td>conservation outcomes for protected matters. New information relating to protected matters may be assessed and accounted for in implementing the Plan.</td>
<td>ToR amended. The introductory paragraphs of the ToR now provide for a reference group, which will include stakeholders with an interest in the environment, to provide certainty that the Plan will be developed with input from the community (under the description of the Plan). The Plan and SAR will also be subject to public consultation.</td>
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4. Revised Terms of Reference

The revised Terms of Reference are below. References are to clauses in the revised Terms of Reference. Additions are highlighted yellow. The deletions are:

- Clause 1.2: ‘Strategic Assessment’ and ‘and Plan’; and
- Clause 1.3: ‘Strategic Assessment’.

Terms of Reference for the Christmas Island Strategic Assessment Report

On 14 February 2019, the Assistant Minister for Regional Development and Territories entered into an agreement with the Minister for the Environment to undertake a Strategic Assessment of Christmas Island pursuant to section 146 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

The Agreement requires the Department of Infrastructure, Regional Development and Cities to prepare the following documents which will be assessed by the Minister for the Environment:

- **Christmas Island Strategic Assessment Policy, Plan or Program (the Plan).** The purpose of the Plan is to provide opportunities for the sustainable development of Christmas Island on land outside of the Christmas Island National Park in accordance with the requirements of national environment law.

  The Department of Infrastructure, Regional Development and Cities will establish a reference group, comprising representatives from local government, environment groups, business and the community, to inform the development of the Plan.

- **Christmas Island Strategic Assessment Report (the Report).** The purpose of the Report is to assess how the Plan protects the environment of Christmas Island and how the impact of development proposed in the plan will be avoided, mitigated and offset (where necessary) to ensure the long-term protection of Christmas Island’s environment.

The Department of Infrastructure, Regional Development and Cities will also prepare a Supplementary Report, if required, following the public consultation period. This report will include a summary of all public comments received, and will outline how comments have been addressed.

These Terms of Reference specify what must be included in the Report.

1. PURPOSE OF THE STRATEGIC ASSESSMENT REPORT

1.1. The purpose of the Report is to assess the impacts of actions proposed under the Christmas Island Strategic Assessment (Plan) on all matters protected by Part 3 (‘protected matters’) of the EPBC Act.

1.2. The Report will enable the Minister for the Environment to evaluate the ability of the Plan to ensure the long term protection of the protected matters on Christmas Island.

1.3. The Report will ensure that development taken under the Plan will not impact on the ecological values or character of the Christmas Island National Park – both its land and sea components. No
development within the Christmas Island National Park will be provided for by the Strategic Assessment, and development within the Christmas Island National Park will continue to be subject to the requirements of the EPBC Act and the Christmas Island National Park Management Plan (2014-2024).

1.4. The Report must describe how the Plan relates to other relevant legislative requirements.

1.5. The strategic assessment will not affect existing approvals made under the EPBC Act or approvals made under applied Western Australian legislation.

2. DESCRIPTION OF THE PLAN

2.1. The Report must describe the Plan to which the assessment agreement relates:

1. The Report must provide a summary outlining the Plan’s overall purpose, key elements, spatial extent, and timeframes, including how long the Plan will be in effect.

2. The Report must provide details about the key elements of the Plan, including:
   a. The conservation commitments and outcomes to be delivered for protected matters.
   b. The actions likely to be taken under the Plan over the short, medium and long term.
   c. The legal and administrative frameworks to implement and ensure compliance with the Plan, and the persons and authorities responsible for implementation (including funding arrangements) and compliance.

3. The Report must describe the need and justification for the Plan including the environmental, economic and social drivers for its development.

4. The Report must describe the decision-making framework used in considering alternatives and developing conservation outcomes in the Plan. It should identify the alternative options that were evaluated to reach the final Plan, and why these options were not supported.

5. The Report must describe how the principles of ecologically sustainable development (as set out in section 3A of the EPBC Act) are considered and promoted in the development of the Plan.

3. DESCRIPTION OF THE PROTECTED MATTERS IMPACTED BY THE PLAN

3.1. The Report must describe the nature of the environment within the strategic assessment area that may be impacted by actions proposed to be taken under the Plan. This must include (at a minimum):

   1. A description and map of current and historical land use.
2. The extent and quality of vegetation present in the strategic assessment area.
4. The nature of the environment, including the state of natural and physical resources, ecological processes, and threatening processes.
5. A description of the landscape containing key environmental matters, such as any known habitat connections, habitat fragmentation, and ecological processes.
6. A map of areas that are already protected for environmental purposes.
7. A description of the heritage values of the strategic assessment area and identification of sensitive heritage areas.

3.2. The Report must identify and describe each protected matter that may be impacted directly, indirectly and cumulatively by actions proposed to be taken under the Plan, including (at a minimum):
   1. Descriptive and spatial information outlining key sites and habitats for protected matters.
   2. Important populations of protected matters and their location, if known.
   3. Areas likely to be important for maintaining ecological processes for protected matters.
   4. Condition of protected matters, including population information, and past, present and projected trends and their likelihood to change over time.
   5. Key threatening processes.
   6. Listing status and values.
   7. Information gaps, outlining the need for any further studies and indicating the measures to address information gaps.

4. ASSESSMENT OF THE IMPACTS OF THE PLAN ON PROTECTED MATTERS

4.1. The Report must describe and assess the likely direct, indirect, and cumulative impacts of actions proposed to be taken under the Plan on all protected matters.

4.2. The Report must describe the method used to understand likely impacts on all protected matters of actions proposed to be taken under the Plan. The level of the assessment will be proportionate to the level of likely risk to each protected matter. The method must:
   1. Be appropriate for assessment at a strategic scale.
   2. Rely on the best available information.
   3. Discuss uncertainty, including reference to the data and information relied upon.

4.3. Describe and assess the likely impacts (if any) of actions proposed to be taken under the Plan on the environment on Commonwealth land (as defined in section 528 of the EPBC Act).

4.4. The Report must include analysis of:
   1. How impacts on protected matters will be avoided.
   2. The duration, extent and likely severity of the impacts.
3. The mitigation measures that will be implemented and their likely effectiveness to reduce impacts to the environment.

4. How unavoidable impacts will be offset in accordance with the Environment Protection and Biodiversity Conservation Act, Environmental Offsets Policy, 2012.

5. The proposed funding arrangements and the timeframes for the delivery of mitigation and offset requirements.

4.5. The Report must include an analysis of the conservation benefits (beneficial impacts) of the Plan, including:

1. How protected matters will be protected and managed within the Strategic Assessment Area.

2. The adequacy and likely effectiveness of the conservation measures under the Plan in protecting and managing protected matters, including the effectiveness of implementation measures.

3. Evidence to support conclusions reached regarding the effectiveness of the conservation measures and commitments identified in the Plan.

4.6. The Report must detail how adaptation to reasonable climate change scenarios has been considered and what (if any) effect this would have on the outcome for protected matters.

4.7. The Report must consider the extent to which the impacts on protected matters of actions proposed under the Plan would be consistent with the EPBC Act, including but not limited to:

1. Consistency with Australia’s international obligations, including the Ramsar Convention, and the Convention for Migratory Species (section 146L of the EPBC Act).

2. Consistency with recovery plans (section 146K of the EPBC Act) and Christmas Island National Park Management Plan (2014-2024).

3. Regard to objectives, conservation actions and other relevant information in conservation advices (section 146K of the EPBC Act) and threat abatement plans.

The Report may also consider other relevant Commonwealth policy or guidelines.

4.8. The Report must include justification for key methods used in the assessment.

4.9 The Report must discuss the social and economic impacts of the Plan, taking into account the principles of ecologically sustainable development.

5. EVALUATION OF THE OVERALL OUTCOMES OF THE PLAN

5.1. The Report must evaluate the overall conservation commitments and environmental outcomes for protected matters taking into account likely impacts on protected matters from actions proposed to be taken under the Plan.

5.2. The evaluation must include:

1. The extent protected matters are represented in the strategic assessment area.

2. The extent any area protected or managed under the Plan will ensure the long-term protection of each protected matter, including consideration of additions to the Christmas Island National Park.
3. Whether there will be serious and irreversible impacts on any protected matter.
4. An assessment of how the Plan meets the endorsement criteria set out in the Agreement at Clause 8.
5. The likely effectiveness of the conservation measures under the Plan in protecting and managing protected matters and any risks and uncertainties.
6. The extent to which the conservation measures under the Plan address any significant vulnerabilities of protected matters under reasonable climate change scenarios.

6. ADDRESSING UNCERTAINTY AND RISK
6.1. The Report must identify key uncertainties and risks associated with implementing the Plan, responses to these and proposed adaptations to changing circumstances. Key uncertainties may include:
   1. Knowledge gaps in scientific understanding and responding to new knowledge.
   2. Assumptions made in assessing potential impacts and benefits.
   3. How changes to Commonwealth, State and Local government legislation, policies, plans and advice is to be accounted for in the management of the areas impacted by the Plan.
   4. Effectiveness or capacity to ensure the Plan is implemented.

7. ASSURANCE AND IMPLEMENTATION FRAMEWORK
7.1. The Report must include an Assurance and Implementation Framework which describes and assesses the adequacy of best practice monitoring programs, regular review, public reporting and independent auditing processes proposed in the Plan to:
   1. Ensure conservation commitments and environmental outcomes for protected matters contained in the Plan are documented, delivered and adequately resourced throughout the life of the Plan.
   2. Ensure the results of monitoring will be used to understand the effectiveness of conservation outcomes for protected matters and improve implementation, in particular, to adapt where monitoring demonstrates delivery of the conservation actions are not leading to the predicted conservation outcomes or where there are risks to protected matters.
   3. Ensure new information relating to protected matters, including legislative changes, may be assessed and accounted for in implementation of the Plan.
   4. Provide mechanisms that track persons who are relying on a strategic assessment approval and ensure proponents are informed of their obligations under the endorsed Plan and approval.
   5. Ensure compliance with the Plan will be monitored and non-compliance will be addressed.
   6. Provide for a 5 yearly assurance report.
7.2. The Report must identify and analyse the likely circumstances and procedures that may result in the review or modification of proposed implementation of the Plan, or abandonment of the Plan.

8. INFORMATION SOURCES

8.1. The Report must identify the sources of information and data relied upon including the reliability and currency of the data as described in Clause 10 of the Agreement.

8.2. The Report may include summaries of independent peer review processes and if included, where the review(s) are available publically.
5. Appendices

A: Draft Terms of Reference made available for public consultation

B: Copies of public submissions

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Draft Terms of Reference for the Christmas Island Strategic Assessment Report

On 14 February 2019, the Assistant Minister for Regional Development and Territories entered into an agreement with the Minister for the Environment to undertake a Strategic Assessment of Christmas Island pursuant to section 146 of the Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).

The Agreement requires the Department of Infrastructure, Regional Development and Cities to prepare the following documents which will be assessed by the Minister for the Environment:

- **Christmas Island Strategic Assessment Policy, Plan or Program (the Plan).** The purpose of the Plan is to provide opportunities for the sustainable development of Christmas Island on land outside of the Christmas Island National Park in accordance with the requirements of national environment law.

- **Christmas Island Strategic Assessment Report (the Report).** The purpose of the Report is to assess how the Plan protects the environment of Christmas Island and how the impact of development proposed in the plan will be avoided, mitigated and offset (where necessary) to ensure the long-term protection of Christmas Island’s environment.

The Department of Infrastructure, Regional Development and Cities will also prepare a Supplementary Report, if required, following the public consultation period. This report will include a summary of all public comments received, and will outline how comments have been addressed.

These Terms of Reference specify what must be included in the Report.

1. **PURPOSE OF THE STRATEGIC ASSESSMENT REPORT**

1.1. The purpose of the Report is to assess the impacts of actions proposed under the Christmas Island Strategic Assessment (Plan) on all matters protected by Part 3 (‘protected matters’) of the EPBC Act.

1.2. The Strategic Assessment Report and Plan will enable the Minister for the Environment to evaluate the ability of the Plan to ensure the long term protection of the protected matters on Christmas Island.

1.3. The Strategic Assessment Report will ensure that development taken under the Plan will not impact on the ecological values or character of the Christmas Island National Park – both its land and sea components. No development within the Christmas Island National Park will be provided for by the Strategic Assessment, and development within the Christmas Island National Park will continue to be subject to the requirements of the EPBC Act and the Christmas Island National Park Management Plan (2014-2024).

1.4. The strategic assessment will not affect existing approvals made under the EPBC Act.  

2. **DESCRIPTION OF THE PLAN**

2.1. The Report must describe the Plan to which the assessment agreement relates:

1. The Report must provide a summary outlining the Plan’s overall purpose, key elements, spatial extent, and timeframes, including how long the Plan will be in effect.

2. The Report must provide details about the key elements of the Plan, including:
   a. The conservation commitments and outcomes to be delivered for protected matters.
   b. The actions likely to be taken under the Plan over the short, medium and long term.

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c. The legal and administrative frameworks to implement and ensure compliance with the Plan, and the persons and authorities responsible for implementation (including funding arrangements) and compliance.

3. The Report must describe the need and justification for the Plan including the environmental, economic and social drivers for its development.

4. The Report must describe the decision-making framework used in considering alternatives and developing conservation outcomes in the Plan. It should identify the alternative options that were evaluated to reach the final Plan, and why these options were not supported.

5. The Report must describe how the principles of ecologically sustainable development (as set out in section 3A of the EPBC Act) are considered and promoted in the development of the Plan.

3. DESCRIPTION OF THE PROTECTED MATTERS IMPACTED BY THE PLAN

3.1. The Report must describe the nature of the environment within the strategic assessment area that may be impacted by actions proposed to be taken under the Plan. This must include (at a minimum):

1. A description and map of current and historical land use.

2. The extent and quality of vegetation present in the strategic assessment area.


4. The nature of the environment, including the state of natural and physical resources, ecological processes, and threatening processes.

5. A description of the landscape containing key environmental matters, such as any known habitat connections, habitat fragmentation, and ecological processes.

6. A map of areas that are already protected for environmental purposes.

7. A description of the heritage values of the strategic assessment area and identification of sensitive heritage areas.

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8.2. The Report may include summaries of independent peer review processes and if included, where the review(s) are available publically.
Claire Howlett  
General Manager - Indian Ocean Territories Branch  
Department of Infrastructure, Regional Development and Cities  
Strategic Assessment of Christmas Island  
GPO Box 594  
CANBERRA ACT 2601

Dear Ms Howlett

TERMS OF REFERENCE FOR STRATEGIC ENVIRONMENTAL ASSESSMENT REPORT FOR CHRISTMAS ISLAND

The Department of Planning, Lands and Heritage (DPLH) supports the objectives of the Strategic Environmental Assessment and provides the following comments on the draft Terms of Reference for the Strategic Assessment Report (Report).

DPLH recommends that the Report considers the opportunities for development control and environmental protection provided under the applied Western Australian legislation to implement and ensure compliance with the Christmas Island Strategic Assessment Plan (Plan).

DPLH also recommends that the various development scenarios and classes of action which may be taken under the Plan should be compatible with the objectives, strategies and actions of the local planning framework prepared under the Planning and Development Act 2005 (WA)(Cl).

DPLH looks forward to early and timely collaboration with DIRDC and the Australian Government on this important initiative towards increasing certainty of sustainable development on Christmas Island in a way that recognises and protects the Island's unique natural environment.

Yours sincerely

Gail McGowan  
Director General  
15 March 2019

Copy: State Coordinator – Indian Ocean Territories, Department of Premier and Cabinet.
Shire of Christmas Island formal submission to the Draft Terms of Reference for the CI Strategic Assessment

“Action taken to progress & protect Christmas Island”
Submission on the Strategic Assessment Draft Terms of Reference

Preamble
The Shire of Christmas Island (SoCI) is pleased to make this submission on the Christmas Island Strategic Assessment Draft Terms of Reference (DTR).

Tangible private sector led investment and economic development on our non-self-governing territory of Australia has been systematically frustrated by red and green tape for the best of the last three decades. This is despite countless, costly, diverse and formal initiatives at local and Commonwealth level to redress a situation so detrimental to the well-being and sustained economic future of the Islanders.

It is sincerely hoped that the Strategic Assessment (SA) will be objective, collaborative, impartially informed and transparent at all stages of the process. To this end the SoCI is fully committed to ensure that the SA will deliver an equitable, sustainable and workable framework to meet the objectives of the Island’s social, economic and environmental realms.

The Agreement
1. The Commonwealth Minister for the Environment, represented by the Hon Melissa price MP, and the Commonwealth Assistant Minister for Regional Development and Territories, represented by the Hon Sussan Ley MP entered into an agreement (the Agreement) on the 14th of February 2019 directing the Department of Infrastructure, Regional Development and Cities (DIRDC) to undertake a Strategic Assessment of the impacts from actions taken on Christmas Island (CI) in the context of all matters protected under Part 3 of the EPBC Act.

2. The Agreement requires the DIRDC to prepare initially two documents;
   a) the Christmas Island Strategic Assessment Policy, Plan or Program (the Plan) and
   b) the Christmas Island Strategic Assessment Report (the Report).

3. As stated in section 3.3 of the Agreement, the SA “will enable economic development and environmental protection up to the next 50 Years. It will support the consideration of future land uses and opportunities in an open and transparent manner, and provide greater certainty to stakeholders”.

4. The objective and scope of the Plan is summarised in section 3.4 of the Agreement: “the Plan will aim to provide opportunities for the sustainable development of CI (excluding areas within the CI National Park). Development may include, but is not limited to, residential, commercial, tourism, industrial development, mining, agriculture and supporting infrastructure”.

5. As stated in section 5.7 of the Agreement “DIRDC agrees to consult with relevant stakeholders, including the Shire of Christmas Island, the Western Australian Government and non-government stakeholders on the development of the draft Plan.”

Planning instruments in force
6. The SoCI has the legislated authority to approve developments on CI and, to that effect, is required to maintain two legally binding planning instruments in accordance with the Planning & Development Act 2005 (WA)(CI):
   a) The Western Australia Planning Commission (WAPC) endorsed February 2015 Local Planning Strategy (the Strategy) and
   b) The Shire of Christmas Local Planning Scheme No.2 District Zoning Scheme (the Scheme) Approved by the Minister responsible for the Indian Ocean Territories and Gazetted in Western Australia on the 17th of February 2016.
Shire of Christmas Island formal submission to the Draft Terms of Reference for the CI Strategic Assessment

Request No.1 to be inserted into the DTR
The SA Plan will be, above all else, aligned with the requirements of the SoCI planning instruments in force and ensure existing land holders and lawful land uses will not be directly or indirectly affected by the SA.

7. Pertinent to the SA and the planning & development processes the SoCI adopted at its December 2018 Council Meeting the SoCI Land & Economic Futures Charter (the Charter).
   The Charter’s first section identifies 8 enabling actions required from the Commonwealth Government as a whole to expedite the orderly and effective release of land and stimulate economic growth on CI. (the first enabling action being the prosecution of the SA)
   The Charter’s second section identifies a suite of 7 policy principles in support of the planning instruments to ensure the orderly, sustained and environmentally responsible economic development of CI.

Request No.2 to be inserted into the DTR
The SA Plan will demonstrate due consideration to the SoCI Land & Economic Futures Charter 2018 Major interests in land & applied WA legislation

8. The SoCI, as the Island’s Local Government Authority, has the planning regulatory obligation and legal mandate to act on behalf of all communities of Christmas Island and, amongst other responsibilities, to plan, facilitate, promote, enhance and protect the economic interests of all resident Islanders through the appropriate use of land over the Island.

9. With respect to areas outside the National Park and given the historical and on-going economic prominence of phosphate mining on the Island, the SoCI recognises the fundamental importance of opportunities associated with the further extraction of viable phosphate deposits in selected strategic locations appropriately zoned for future development. The SoCI also acknowledges the economic benefit in encouraging the progressive development of relinquished exhausted mining areas, commensurate with the relinquishment program, that may be suitable for a range of high-yield agri-businesses in the short, medium and long term.

10. The SoCI, through its planning instruments, assumes responsibility for development approvals over prescribed Zones under the Scheme. The mine, through the life of its mining lease, has exclusive operational and mining rights over approximately 40% of the land mass outside the National Park. The physical interaction between the Scheme and mining activities is very significant. For these reasons the SoCI and the mine have the jointly declared intention to actively collaborate with DIRDC in establishing the overarching technical and legal parameters needed to inform the orderly development of the Plan.

Request No.3 to be inserted into the DTR
The SA Plan will be scoped to deliver enhancement of the SoCI Strategy and Scheme to be reviewed under the applied WA legislation, incorporate mining requirements and obligations and facilitate the adaptation of the processes of land use management in response to the need to introduce new economic development opportunities within the Scheme area.

The economic & social purpose of the Plan

11. Given the SoCI’s planning requirements and obligations, the primary focus of the 50 years Plan is to not only protect existing permissible land uses and activities under the Scheme but to also facilitate, promote and support the creation of a forward thinking and innovative long-term socio-economic vision with specific and measurable economic endeavours aimed at establishing new developments and jobs for the ultimate benefit of present and future generations. This vision could be established at the front end of the SA process as described in sections 13 and 14 below.

Request No.4 to be inserted into the DTR
The SA Report will provide spatial, policy and possible regulatory details associated with the social and economic purpose of the Plan to which the environmental assessment must relate.

Inclusive, participatory & transparent process to develop the Plan

12. Firstly it is envisaged that the development of the Plan and the Report will require the DIRDC to set aside a sizeable budget. Secondly, to adequately support the DIRDC, the SoCI, the mine and Parks Australia could
provide essential technical, legal and managerial input to develop the Plan together with its orderly implementation. Finally, an adequate mechanism would be required to ensure effective participation of representatives of community organisations and local businesses in developing the Plan.

13. In light of the above the SoCI proposes to prosecute and expedite the development of the Plan through a WAPC recognised and codified procedure namely an Enquiry by Design Workshop Process (EbD). This will provide a creative, comprehensive and well documented basis for the Plan and the subsequent mandatory review of the SoCI Planning Strategy.

14. The advantages of the EbD are but not limited to:
   a) The EbD is scoped to deliver the various elements of a revised local planning strategy;
   b) The EbD will support the future review of the SoCI Strategy and Scheme (due in February 2021);
   c) The EbD can align with the requirements of the WA Environmental Protection Act 1986;
   d) Part of the legislative requirements for the SoCI to consult in its review of the Scheme can be met;
   e) Extremely efficient, inclusive and cost effective (Estimated 8 weeks to prepare, 3 days of workshop, 4 weeks to compile the workshop draft outcomes report and 4 weeks review by EbD participants);
   f) All key stakeholders work together and at the same time to achieve the objectives of the DIRDC;
   g) Facilitated by a qualified and neutral outsider selected by the DIRDC;
   h) The outcome of the process is typically non-legally binding;
   i) The procedure is proven and specifically designed to resolve complex and overlapping issues, process multiple map overlays and engage with numerous public & private stakeholder groups with diverse responsibilities, obligations, interests and potentially conflicting expectations;
   j) The environmental, economic and social fundamental parameters and key objectives are confirmed in a transparent manner and up-front by the participants themselves;

Request No.5 to be inserted into the DTR
The development of the draft Plan will be prosecuted under the auspices of the codified Enquiry by Design Workshop Process (see attached EbD workshop process and preparation manual 2003) with technical guidance from relevant State/Commonwealth agencies under the applied WA legislation.

Timeline & milestones
15. The release of Crown Land to attract investment and new businesses on CI has been sought by many for several decades without any tangible results. Over the years numerous and well-intended investors investigated opportunities on CI only to be confronted with a lack of clear and enforceable government land release arrangements, complex and potential costly approval procedures, formidable and uncertain timelines to obtain approvals and, at times, divergence in the interpretation of statutory requirements.

16. The current economic indicators on Island are far from encouraging. In effect the mine’s workforce is noticeably in decline whilst the occupation of the detention centre lacks continuity and or regularity. This indicates there is a pressing need to expedite, as much as feasible, the prosecution of the SA in order to provide increased certainty for prospective development initiatives, renewed confidence from investors and foster a sense of rejuvenation associated with the potential creation of much needed new jobs.

17. Taking into consideration the above the SA is expected to operate on a fixed timeline (arguably in advance of the review of the Scheme) with a clear program and specific dates for each agreed milestone. The SoCI, the mine and Parks Australia have the necessary and complementarity of experience on the ground to assist the DIRDC in programming a timely outcome for the SA.

Request No.6 to be inserted into the DTR
The development of the Plan and the Report will be subject to a program prepared by the DIRDC in close collaboration with the SoCI, the mine and Parks Australia with a fixed overall timeline and a specific date for each key milestone.

On-going advice & coordination
18. The SA with its foreseeable level of complexity, its intended 50 years format and its expected intensive program, is likely to experience, despite the best of preparation, unexpected variations where some planned activities (desktop or on the ground) may experience frustration to achieve expected targets.
19. Taking effectively into consideration sections 8, 9, 10, 11, 12, 13, 14 and 17 it is becoming apparent that the DIRDC will require regular and relatively frequent formal interaction with the SoCI, the mine and Parks Australia. This will ensure for example that safe and authorised access to specific areas can be provided with appropriate inductions, logistical parameters for field activities can be coordinated and key policy and technical information are appropriately exchanged amongst the major stakeholders. This should ultimately allow for a frictionless, efficient and timely SA process.

Request No.7 to be inserted into the DTR
The DIRDC will establish and coordinate the regular gathering of an on-island advisory and coordination reference group inclusive of representatives of the SoCI, the mine and Parks Australia.

Strategic Assessment Area
20. For the purpose of clarity for all public and private stakeholders and to visually reinforce the significance of paragraphs 6, 7 and 8 the SoCI has superimposed statutory planning information on the SA map prepared by the Department of Environment and Energy

Request No.8 to be inserted into the DTR
The map attached at page 5 of this submission will be inserted in the Draft Terms of Reference.

Literature Review
21. The development of the Plan must be informed by a number of authoritative strategic documents often commissioned a great cost by the Commonwealth. This should include but is not limited to:
   - JSCNCET The Strategic importance of Australia’s Indian Ocean Territories (2017)
   - Our Christmas Island 2030 Strategic Plan (2018) (not formally submitted for public comments)
   - MINTOPE reports and papers (as provided to the Commonwealth 2012-2018)

Request No.9 to be inserted into the DTR
The DIRDC in consultation with the SoCI and Parks Australia will establish from the outset the list of relevant strategic public documents to be reviewed as part of the development of the Plan.

Endorsement of the final draft Plan by the SoCI
22. Once the DIRDC is satisfied with the final draft Plan there is a need for the SoCI to endorse it subsequent to advice from the WA Department of Planning to ensure that the Plan is fully consistent with the requirements of the Planning & Development Act 2005 (WA)(CI) and the SoCI own planning instruments.

Request No.10 to be inserted into the DTR
The DIRDC will seek the SoCI’s formal endorsement of the final draft Plan to ensure consistency and compliance with the WA planning legislation, regulations and policies.
The **Assessment Plan** must, above all else, incorporate all permissible Reserves and land use Zones of the Feb. 2016 WA Gazetted Shire of CI Town Planning Scheme No.2.

The **Assessment Report** must demonstrate due consideration within the area delimited in red to:

a) The objectives, conditions and development requirements of the TPS 2 and the WAPC endorsed Feb. 2015 CI Local Planning Strategy.


The areas surrounded in full by the **National Park** are not permitted for developments under the current **Shire Planning Instruments in force**. These areas (with the exception of the detention center Reserve) have the long-held **Shire of CI** support to be amalgamated into the **National Park** post-mining.
28 March 2019

The Department of Infrastructure, Regional Development and Cities Strategic Assessment of Christmas Island
Indian Ocean Territories Branch GPO Box 594 CANBERRA ACT 2601
By website

To whom it may concern,

Comment on Terms of Reference (ToR) for the Strategic Assessment of Christmas Island under the EPBC Act

Thank you for the opportunity to comment on the Terms of Reference (ToR) for the Christmas Island Strategic Assessment and Report.

BirdLife Australia is the nation’s oldest independent conservation organisation with over 145,000 supporters. Our primary objective is to conserve and protect Australia’s native birds and their habitat.

Our organisation is a partner in the world’s largest conservation partnership through BirdLife International.

BirdLife Australia has played a major role in threatened species conservation and avifauna monitoring throughout our 110-year history. We have invested in long-term threatened bird conservation programs, often in partnership with other stakeholders, bringing together research, education, on-ground remediation and advocacy.

BirdLife strongly supports conservation of Christmas Island’s natural environment; a globally important biodiversity hotspot dubbed one of the world’s ten greatest natural wonders by Sir David Attenborough.

We understand the objectives of a strategic assessment in establishing long-term conservation objectives for the Island and in providing certainty to stakeholders, particularly investors. However, we are concerned that there are considerable risks in undertaking a strategic assessment with an anticipated 50-year lifespan, particularly in the context of our rapidly changing climate.

Other long-term legislative instruments illustrate the dangers of ‘locking in’ perverse outcomes. For example, when drafted in the 1990’s the authors of Tasmania’s 20-year Regional Forestry Agreement (RFA) did not foresee that by providing security to the Tasmanian Forest Industries, the RFA would contribute to the rapid decline of the now Critically Endangered Swift Parrot. Once enshrined in legislation, this immutable instrument locked in the demise of this unique migratory parrot.

From our own work recognising Christmas Island as a Key Biodiversity Area in Danger and through our petition to save Christmas Island from further mining that attracted 50,000+ signatures we know:

birds are in our nature
Christmas Island is in Danger of losing more of its unique species

Tens of thousands of Australians, including many Christmas Islanders, value the Island’s unique nature

Destructive industries, such as mining, cannot provide Christmas Island with a sustainable economic or environmental future

With a booming Asian tourism market at the Island’s doorstep, the fastest growing sector in the tourism industry, ecotourism, can play a vital role in securing the Island’s economic and environmental future.

We comment on the Terms of Reference (ToR) with this knowledge and with a particular focus on the Island’s birds.

1. Suitability of the strategic assessment to ensure the best conservation and community outcomes

   The ToR must mandate explicit consideration of the suitability of the strategic assessment approach for maintaining protected matters on Christmas Island.

   This could be achieved by rephrasing:
   - 5.2.4 An assessment of if and how the Plan meets the endorsement criteria set out in the Agreement at clause 8.

2. Christmas Island Biodiversity Conservation Plan

   It is difficult to understand how this strategic assessment is possible when, to our knowledge, the Christmas Island Biodiversity Conservation Plan has not yet been adopted after five years (and three environment ministers).

   We suggest that the ToR require:
   o Updating of the Draft Christmas Island Biodiversity Conservation Plan, including a public consultation process
   o Adoption of the updated Christmas Island Biodiversity Conservation Plan
   o Christmas Island Biodiversity Conservation Plan providing the framework for ecological considerations in the strategic assessment.

   This could be achieved by rephrasing the ToR as follows
   - 4.7.2 Consistency with recovery plans (section 146K of the EPBC Act) and Christmas Island National Park Management Plan (2014-2024) and an updated and signed-off Christmas Island Biodiversity Conservation Plan.

3. National Park

   The ToR rightly excludes the National Park from the strategic assessment. National Park designation plays an important, positive role in protecting the Island’s biodiversity. The strategic assessment should explicitly consider additional areas for inclusion in the National Park with a focus on critical habitat for threatened species:
   o Known actual or likely breeding locations (and buffers around these) of threatened species outside the current National Park boundaries e.g. Christmas Island Frigatebird nesting sites.
   o Native vegetation or valuable regrowth on former mining sites or stockpiles
Freshwater sources
This could be achieved by rephrasing the ToR as follows:

- 5.2.2 The extent any area protected or managed under the Plan will ensure the long-term protection of each protected matter, including consideration of an expansion of the National Park to safeguard protected matter.

4. Limited knowledge of species’ ecology
The population and/or current conservation status of some Christmas Island species is unclear. For example, the last record of the Christmas Island Blind Snake was in 2009 and Christmas Island Frigatebirds population estimates are 15 years out of date. These uncertainties will make the assessment difficult. The ToR must ensure that knowledge gaps are addressed before the assessment.

This could be achieved by rephrasing the ToR as follows:

- 3.2.2 Important populations of protected matters and their location [delete if known]
- 3.2.4 Condition of protected matters, including up to date population information, and past, present and projected trends and their likelihood to change over time

5. Mining
Mining is specifically mentioned as an economic activity requiring ‘streamlining’ through this strategic assessment. Since the 1980’s successive Federal governments have made statements about the obvious need to transition the Christmas Island economy towards sustainability and to stop phosphate mining for the benefit of the community and the island’s ecology.

The ToR should reflect the destructive impacts of mining on the Island’s ecology and should specifically rule out identifying any new areas for phosphate mining.

6. Tourism
Ecotourism has long been hailed as one of the pillars of growth for the Christmas Island economy. In fact, the Commonwealth itself has engaged in an exciting tourism enterprise in the National Park. However, ecotourism needs to be clearly defined to ensure benefits are felt throughout the community and ecosystems and does not represent a risk to the Island’s biodiversity.

BirdLife Australia would be happy to work with the Australian Government in progressing the Biodiversity Conservation Plan and the strategic assessment.

Yours sincerely

Samantha Vine
Head of Conservation
BirdLife Australia
Strategic Assessment Public Consultation – Submission by the Christmas Island Tourism Association

The opportunity to meet and discuss the Strategic Assessment was valuable and Christmas Island Tourism is appreciative of the chance to provide input. This is a complex area and the discussions provided a better understanding of the concepts.

The goal to streamline and fast track approvals for land development projects whilst protecting the natural environment is supported.

A healthy environment is critical for tourism. The environment is the current and future unique selling point for tourism and is important for the community. The environment (natural and built) must be protected for all to enjoy in the future and to be sustainably used for economic benefit.

Tourism also requires additional quality and sustainable accommodation, hospitality and activities to be globally competitive and develop new markets eg. soft adventure.

With this in mind the environment is dynamic and this must be taken into account when developing the Strategic Assessment.

Land with strong environmental values, including all primary rainforest, must be excluded from any development. The long term economic value of this land is the ecosystem.

Once the primary rainforest is removed it does not recover and any amount of environmental offsets and rehabilitation will not bring it back. In an ideal world these parcels of land would be incorporated into the National Park, particularly those which share a border. The National Park is open to sustainable development so this approach would still have the desired outcome of development and protection. Another approach would be to create a new category of Protected Areas, which would protect land with high environmental values.

As the Strategic Assessment is being considered for a fifty-year time frame it is important that the most current environmental information is used at the time of lodgement of an application under the Strategic Assessment. For instance, the long-term impacts (both positive and negative) of invasive species, recovery plans and actions, feral cat eradication and climate change are unknown.
In developing the Strategic Assessment it is important for a holistic approach, which considers cumulative impacts to be taken to avoid environmental degradation or put differently ‘death by one thousand cuts’.

It is also important that the most current development plans are taken into account at the time of application to ensure development is meeting the community and economic goals of the day. These could be significantly different to what is envisaged today and could be impacted by the strategic importance of Christmas Island for border security, immigration and defence, changes to the global economy and trends in tourism.

Christmas Island Tourism feels that heritage is another area that needs more consideration. Heritage is important to tourism, the community and the future as it tells the Island’s story. The proposed Heritage Plan as part of the Strategic Assessment is welcomed and can provide another important document, building on available information to support heritage values and to inform the community and visitors. It is anticipated that this Heritage Plan will streamline processes and reduce costs for modification of existing buildings and enable new developments to occur. While buildings and streetscapes must be able to be modified to be suitable for modern life, their heritage value cannot be ignored, particularly in the tourism precinct of Settlement and a cohesive approach, which takes into account the local planning requirements is needed. It is essential to have clear heritage outlines and values to guide development and attract investment. There is a wealth of knowledge and ideas from individuals and business who have redeveloped buildings which should be tapped into during the consultation processes.

There have been significant delays in obtaining heritage approvals, which have led to projects stalling and/or heritage assets being left to decay. Allegedly, there has been one instance when a heritage building was demolished to avoid the approval process.

Within the proposed timeframe of the Strategic Assessment there is likely that old mine and other buildings will become available for repurposing and these may be of sufficient interest due to location and heritage values to attract investors. Imagine the port and roundabout area as a busy precinct hosting accommodation, shops, eateries and office space, neighbouring a working freight port! Clear guidance will assist in creating inviting spaces, which reflect the heritage and support hospitality and other commercial uses. There are many examples of such developments across the world.
In the meantime any assistance in helping our members, including Acker Pty Ltd, to navigate the process and reach an outcome is welcomed. We understand there has been substantial delays in the process for redeveloping the ‘Virgin’s Castle’ into a boutique hotel, sympathetic to the original design. Such a development would add value to tourism.

On a related matter the Christmas Island Golf Club raised concerns regarding the Crown land release program. It is understood that the golf course is subject to investor attention. The Golf Club is understandably concerned about their future should an investor with substantial financial backing make a bid for the golf course and club premises as they do not have the financial resources to compete. The Golf Club is soon celebrating 65 years of service to the community and is firmly embedded in the Christmas Island story with roots as far back as World War II. Today the club supports tourism and the community through their regular games and annual Acker Golf Open. The community value must be considered in any assessment of bids for this land. This should not prevent developments adjacent to the golf course, such as villas, and the successful proponent working with the golf club to meet residents and visitor needs.

As this project progresses, we would like to be involved with a view to obtaining the best possible outcome for Christmas Island.

Yours faithfully

Lisa Preston
Chairperson
Christmas Island Tourism Association

28 March 2019
Submission to consultation on the Strategic Assessment of Christmas Island

Christmas Island’s environment is globally unique and significant. All development on Christmas Island must put the environmental needs first to ensure local, Australian and international obligations are met and the environment protected. The large scale and long timeframe of the proposed strategic assessment has the real and ongoing opportunity to consider all the impacts and conservation matters across the entire island to make long term decisions which are ecologically sustainable taking into account social, economic and cultural values.

However, the proposed fifty year timeframe is concerning. In relation to ecological sustainability. Concerns relate to the uncertainties over the predicted effects of climate change as well as the constantly changing knowledge of the ecosystem and species distribution on Christmas Island. Species and ecosystems of small oceanic islands are particularly vulnerable to change and the environment must be protected to prevent further extinctions. It is necessary that scientific advice is considered in determining the best timeframe which considers environmental health. It is also important to consider that most planning documents and strategies which consider development and community needs are for a lesser time frame.

The environment has a broad meaning. Under section 528 of the Environment Protection and Biodiversity Act 1999 (EPBC Act), the ‘environment’ includes but is not limited to:

a) ecosystems and their constituent parts, including people and communities;

b) natural and physical resources;

c) the qualities and characteristics of locations, places and areas;

d) the heritage values of places; and

e) the social, economic and cultural aspects of the aforementioned things.

The principles of ecologically sustainable development as defined in section 3A of the EPBC Act, are:

a) decision-making processes should effectively integrate both long-term and short-term economic, environmental, social and equitable considerations;

b) if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation;

c) the principle of inter-generational equity – that the present generation should ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;

d) the conservation of biological diversity and ecological integrity should be a fundamental consideration in decision-making; and

e) improved valuation, pricing and incentive mechanisms should be promoted.

Although 63% of Christmas Island is National Park the borders are not respected by nature and areas of significant environmental value and habitat for threatened and endangered species are situated outside of the National Park. An outcome of this Strategic Assessment must be protection of those areas and inclusion in the National Park. Inclusion will maximise protection while still enabling sustainable development and activities as provided by under a National Park Management Plan.

A large scale strategic framework under a Strategic Assessment, can consider island-wide issues and take a holistic approach to avoid piecemeal approvals which lead to environmental degradation and cumulatively impacting on matters protected under environmental law.

Additionally, there needs to be a mechanism to ensure that the proposed development meets the legislative requirements, the community’s development goals, local planning requirements and
commercial aspects at the time of application. It is not clear if this is part of this process, or will still be required under other mechanisms.

In considering any development the constituent parts of the environment must be recognised. The Christmas Island people and community have an overwhelming desire for a healthy natural environment. This must be effectively balanced with the desire for jobs and economic prosperity.

The peoples’ thoughts are provided in the recent consultations to develop the Our Christmas Island 2030 Strategic Plan of the Regional Development Organisation, which clearly indicates that in ten years time the community wants to be known for its natural environment and tourism.

The Strategic Plan 2030 provides strong evidence that the future economic prosperity is based on the preservation, and strategic and sustainable use of the natural resources for sustainable tourism and agriculture. With changing technology there are likely to be a range of other industries which require land in the future, such as renewable energy and these should be considered on their merit.

In developing the parameters of the Strategic Assessment the reasons for not approving the action proposed by Phosphate Resources Limited to undertake exploration for phosphate resources within 44 drill lines on unallocated crown land on Christmas Island on 29 May 2018 (EPBC 2016/7779) must be included. Since this decision the people of Christmas Island have accepted the inevitability of phasing out of phosphate mining. The strategic assessment can assist in developing new and existing sustainable industries including tourism, research and agriculture.

The Strategic Assessment must not be used as a method to enable exploration leading to clearing primary rainforest.

The Strategic Assessment must not be used as a method to enable new mining leases in primary or substantial secondary regrowth rainforest based on environmental offsets or otherwise. No amount of rehabilitation or environmental offsets will restore this rainforest. In taking this approach it is acknowledged the phasing out of phosphate mining will reduce the conservation levy and support for some environmental programs such as feral cat eradication. It is time to consider and develop other funding mechanisms to ensure environmental protection is properly funded into the long term.

The reason that people visit Christmas Island is for its unique nature. Should the environment be damaged there would be less reason to visit resulting in a very limited economic return from tourists, thereby creating a greater impost on government to maintain services and infrastructure. Birdlife Australia, in its petition to the Prime Minister on 11 December 2017, expressed concern that mining expansion would negatively impact on ecotourism.

The Island’s carrying capacity must be considered in developing the Strategic Assessment and this is likely to limit a large population base and mass tourism. Many people being on island at any one time will negatively impact on the environment and threaten the tourism industry. Over tourism is a global problem and the Strategic Assessment provides the framework to ensure this does not become a problem for Christmas Island. Residential, tourism and border control development can be concentrated in the settled area of the ‘dog’s head’, the degraded area at Southpoint, the ‘old’ Christmas Island Resort and within the border control precinct at North West Point. Small scale, low impact development would still be available in other areas subject to environmental considerations and controls. Agriculture should only be considered on already cleared land.

A well designed Strategic Assessment provides an opportunity to ensure environmental health into the future. This would support the community’s way of life – social, economic and cultural as negative
impacts on the environment from unsustainable development will not meet the principle of inter-generation equity and will not contribute to the ongoing social values.

In looking ahead, the dynamic nature of the environment and the difficulty in predicting future environmental health must be considered in the design of the Strategic Assessment. The impacts of known and unknown threats and actions taken under recovery plans on the environment cannot be sufficiently predicted over the long-term. It is essential that the Strategic Assessment enables decision makers to consider the recovery plans, threat abatement plans, conservation advices and any other environmental instrument in force at the time of application to ensure the best outcomes for environmental health.

The Strategic Assessment fact sheet indicates the opportunity for engagement with stakeholders during the development of the draft plan and draft report. It is essential that stakeholders include a voice, or voices, which have a primary focus on protecting the environment. As the main island based environmental group we anticipate further involvement during the development of the draft plan and report.

Karenn Singer
Chairperson
Island Care Inc
29 March 2019