

Recent developments towards statehood

- 3.1 The Northern Territory Government has ensured that the current push for statehood is community driven, based on a bipartisan approach and recognises the particular interests of Aboriginal Territorians.¹
- 3.2 The Northern Territory Government is also concerned to ensure that proper processes are put in place to advance statehood. In announcing the recommitment to statehood, Territory Chief Minister the Hon Clare Martin MLA noted the shortcomings of the processes leading up to the 1998 referendum, particularly the controversial Statehood Convention:
- Statehood was lost because ideas that didn't suit some politicians were marginalised and indeed excluded from the debate. It was lost because those politicians did not allow Territorians to democratically elect a Constitutional Convention and determine what would be discussed at such a gathering. Statehood was lost, or perhaps a better word is abandoned, because those politicians did not trust the people.²
- 3.3 Recent developments towards statehood in the Northern Territory have centred on the activities of the Legislative Assembly Legal and

1 See Mr Kiely MLA, *Transcript of Evidence*, 14 November 2006, p. 40; Ms McCarthy MLA, *Transcript of Evidence*, 15 November 2006, pp. 6-8; Mrs Bradley, *Transcript of Evidence*, 15 November 2006, pp. 8-12.

2 Chief Minister the Hon Clare Martin MLA, Speech to the Charles Darwin Symposium Series, 22 May 2003, p. 4.

Constitutional Affairs Committee (LCAC), the Minister for Statehood and the Statehood Steering Committee.

Legislative Assembly Standing Committee on Legal and Constitutional Affairs

- 3.4 The Legislative Assembly Standing Committee on Legal and Constitutional Affairs (also known as the Legal and Constitutional Affairs Committee or LCAC) was established by the Northern Territory Parliament in August 1998 to inquire into, report and make recommendations on legal and constitutional matters referred to it by the Attorney-General or the Assembly.
- 3.5 The first reference for LCAC was to inquire into the failed 1998 statehood referendum and, in consultation with the community, report and make recommendations on appropriate measures to facilitate statehood.³ LCAC concluded that Territorians generally support statehood and recommended that the government recommence a push for statehood in the following stages:
- A comprehensive community education programme;
 - A referendum on whether the Territory should proceed to statehood, if required by the Commonwealth Government. Alternatively the Territory should commence negotiations with the Commonwealth on terms and conditions of a grant of statehood;
 - Refer the negotiated terms and conditions to a Northern Territory Constitutional Convention with popularly elected delegates;
 - An education campaign on the outcome of the Constitutional Convention leading to referenda on the terms and conditions of a grant of statehood and the draft Constitution of the new State;
 - Once the referenda are passed, the Commonwealth should commence processes to give effect to the grant of statehood and new Constitution. The Commonwealth should refer any major changes it wishes to make to the terms and conditions and/or constitution, back to the Northern Territory for the matter to be resolved by a further referendum; and

3 The key reasons for the 'No vote' identified by LCAC are discussed in paragraph 2.16.

- The Commonwealth enacts legislation to give effect to the final terms and conditions of the grant of statehood and new Constitution of the Northern Territory.⁴
- 3.6 The Legislative Assembly considered the LCAC report in August 1999 and accepted the following recommendations:
- That the government re-commence the push for statehood without a fixed timeframe; and
 - That a public education campaign commence, to be implemented by an independent consultant, with oversight by the Standing Committee and employ specific strategies for Aboriginal communities.⁵
- 3.7 The Assembly noted the other recommendations of the report, namely:
- That the Northern Territory Government ascertain whether the Commonwealth Government requires another referendum to progress statehood;
 - That the Territory Government, with Aboriginal organisations, commence discussions on developing a 'framework agreement' (The issue of a framework agreement is further discussed in Chapter 5);
 - That the Standing Committee be given a reference to advise the Assembly on a future Constitutional Convention; and
 - That at the conclusion of the public education programme, the Territory Government commence:
 - ⇒ negotiations with the Commonwealth Government on the terms and conditions of a grant of statehood; and
 - ⇒ a process for developing a new draft Northern Territory Constitution.⁶
- 3.8 In 2001 the Legislative Assembly resolved to expand the terms of reference of LCAC by granting the Committee:

4 Northern Territory Legislative Assembly Standing Committee on Legal and Constitutional Affairs, *Appropriate measures to facilitate statehood*, pp. 7-8.

5 Northern Territory Legislative Assembly Standing Committee on Legal and Constitutional Affairs, *Appropriate measures to facilitate statehood*, p. 8.

6 Northern Territory Legislative Assembly Standing Committee on Legal and Constitutional Affairs, *Appropriate measures to facilitate statehood*, p. 8.

The power upon its own motion to address matters concerning ... the Northern Territory's ongoing constitutional development that may also be tied to a future grant of statehood.⁷

3.9 LCAC continued to work on public education on statehood and in 2002 released an information paper detailing a background history of Northern Territory constitutional development and the push towards statehood. The Chronology of Events was the first in a series of papers.⁸

3.10 Following the May 2003 announcement of a new 'community based' campaign for statehood⁹, the Government referred to LCAC the following framework to guide its work:

- (a) The process [campaign for statehood] would be community based, not imposed upon the community.
- (b) The Standing Committee would facilitate and provide resources to this community based process.
- (c) The Government's aim to achieve Statehood by 1 July 2008, which would include:
 - (i) the drafting of a new constitution;
 - (ii) the holding of an elected Constitutional Convention;
 - and
 - (iii) the holding of a referendum.
- (d) A central principle for the Northern Territory to achieve Statehood is the respect for and proper recognition of the Indigenous people of the Territory and that the Indigenous people are to be involved in all stages of the process.¹⁰

3.11 One member of LCAC reported that the committee 'has been the most confusing and probably discouraging committee that I have been involved in'.¹¹ The Committee heard that the primary cause of the frustration felt by the LCAC member was the lack of engagement by the Commonwealth on Northern Territory Statehood. The role of the Commonwealth in progressing statehood is discussed further below.

7 Northern Territory Statehood Steering Committee, Terms of Reference 2005, p. ii.

8 Legislative Assembly Standing Committee on Legal and Constitutional Affairs, *Northern Territory Constitutional Development and Statehood, A Chronology of Events*, Information Paper 1, 2002.

9 Chief Minister the Hon Clare Martin MLA, Speech to the Charles Darwin Symposium Series, 22 May 2003, p. 2.

10 Northern Territory Statehood Steering Committee, Terms of Reference 2005, p. i.

11 Mr Mills MLA, *Transcript of Evidence*, 15 November 2006, p. 28.

- 3.12 In early 2004 LCAC resolved to establish a Statehood Steering Committee comprising members of LCAC and key community stakeholders. In August 2004, the Legislative Assembly endorsed the terms of reference for the Steering Committee and authorised LCAC to appoint its membership. The role and activities of the Statehood Steering Committee are further discussed below.

Northern Territory Statehood Steering Committee

- 3.13 The main purpose of the Statehood Steering Committee is to advise and assist LCAC on statehood issues.

This committee has been charged with the advancement of statehood in three interlinked ways – education of and consultation with Territorians; defining and developing issues around constitutional development; and provision of advice to the LCAC regarding process and other emerging matters of significance.¹²

- 3.14 The Steering Committee is comprised of 17 members, three of whom are also members of the Legislative Assembly.¹³ The terms of reference for the Statehood Steering Committee list the following stakeholder groups from which members may be drawn:

- Northern Territory Indigenous groups/organisations;
- Northern Territory municipal, local and community governments;
- Business and pastoral groups/organisations;
- Trade Unions and Industry groups/organisations;
- Ethnic community groups/organisations;
- Educational or marketing institutions, groups or organisations;
- Women's organisations;
- Northern Territory Council of Churches and the Ministers Fraternal and other religious groups;
- Specific pressure, lobby or interest groups, that have a commitment to the achievement of Statehood for the Northern Territory;
- Young Territorians; and

12 Mrs Bradley, *Transcript of Evidence*, 15 November 2006, p. 9.

13 As at February 2007.

■ Senior Territorians.¹⁴

3.15 Mr Elliot McAdam MLA was appointed as the first Chair of the Steering Committee in 2005 and was replaced by Ms Barbara McCarthy MLA in September 2006. Ms McCarthy is also the Chair of LCAC. Mrs Sue Bradley, a community representative, is the current Co-Chair of the Committee. An Executive Group acts as the interface between the Steering Committee and LCAC with regard to reporting to LCAC and overseeing the work of the Steering Committee. The Executive Group is made up of the Chair, Co-Chair and two members of the Steering Committee, and two members of LCAC.¹⁵

The approach to statehood by the Steering Committee

3.16 The Statehood Steering Committee has identified the legislative power of the Commonwealth over the Northern Territory as the priority statehood issue. Other issues of concern to the Steering Committee include the need for eventual equality with existing states, clear information, agreed and transparent processes in relation to the achievement of statehood, and that the Commonwealth should declare its own position in relation to statehood. Figure 2.1 below outlines the position statement of the Steering Committee.

Figure 2.1 Statehood Steering Committee Position Statement

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1. The Northern Territory is not democratically governed because of the ability of the Commonwealth to override decisions of an elected Northern Territory Government.
 2. Statehood for the Northern Territory must mean eventual equality with the existing States. Anything less than an equal partnership with the other States in the federation would be unacceptable to most Territorians.
 3. Territorians want to know exactly what they would be agreeing to in any future plebiscite or referendum about Statehood.
 4. It is important that an agreed process to determine any terms and conditions is adopted. The process should include realistic time frames for planned outcomes. Such an agreement will assist the Northern Territory to make budget allocations for timely education programs, plebiscites and other requirements and will identify benchmarks against which citizens may assess what
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14 Northern Territory Statehood Steering Committee, Terms of Reference, p. 4.

15 Northern Territory Statehood Steering Committee, Terms of Reference, pp. 7-8.

progress is being made. The previous Northern Territory Committee recommended the negotiation process should go hand in hand with Territory constitutional development.

5. The SSC wants the Commonwealth to be clear on its intentions for Northern Territory Statehood. Does the Commonwealth agree the Northern Territory should become a State? There is no point raising awareness and expectations of Territorians if there is nothing to be gained.¹⁶

3.17 The approach of the Statehood Steering Committee underlines the differences of the Territory concerning law-making powers, the appointment of the executive, national referenda, and representation in the federal Parliament.¹⁷ The 'unique selling point' identified by the Steering Committee is that statehood brings equality and without statehood, Territorians remain second class citizens.¹⁸ While achieving statehood would bring formal equality, it would also involve minimal change to the daily lives of Territorians.

3.18 It was put to the Committee that by adopting this minimalist approach, the Steering Committee neglects the broader opportunities for change that may arise through discussions over statehood:

Congress's view is that the minimalist business-as-usual model of statehood currently being promoted can do nothing to improve the circumstances of Aboriginal people. Congress urges a different approach. Rather than saying that no-one should worry, the government should show how statehood can make a real difference to Aboriginal wellbeing.¹⁹

3.19 It is important that Aboriginal people are listened to and consulted in any future campaign on statehood. Indeed, the Committee acknowledges the good work of the Northern Territory Government, LCAC and the Steering Committee to include Aborigines in the process so far.

16 Statehood Steering Committee, *Submission No. 1*, p. 3.

17 Statehood Steering Committee, 'Self-Government and Statehood – What's the Difference?', Fact Sheet No. 1; 'How the Territory is not equal to States', Fact Sheet No. 2.

18 Northern Territory Statehood Steering Committee, *Report to the Legislative Assembly Standing Committee on Legal and Constitutional Affairs*, Annexure 4 – Communication Strategy, 2006.

19 Mr Liddle, *Transcript of Evidence*, 14 November 2006, p. 12. Similar sentiments were expressed by the Central Land Council, see Ms Weepers, *Transcript of Evidence*, 14 November 2006, p. 26.

- 3.20 While discussions on statehood are an opportunity to raise issues of Aboriginal disadvantage, the Committee notes that issues of Aboriginal disadvantage are not technically related to statehood. Appropriate policy mechanisms should certainly be employed to address Aboriginal disadvantage regardless of statehood. The issue of Aborigines and statehood, including the future treatment of the Commonwealth *Aboriginal Land Rights (Northern Territory) Act 1976* is further discussed in Chapter 5.
- 3.21 The Committee considers that the work of the Steering Committee and its approach to statehood may be described as minimalist, but it is also a reasonable course to take given the diverse population of the Northern Territory and the wide variety of views on statehood. Many other seminar participants were supportive of the work of the Steering Committee.
- 3.22 However, the Committee also considers the claim that the Northern Territory is not democratically governed because it is subject to the legislative power of the Commonwealth is perhaps an overstatement. The claim implies that a grant of statehood would bring democracy to the Northern Territory. Moreover, this claim:
- ... fails to recognise that other, more significant, criteria for democracy such as freedom of speech and free and fair elections operate in the Territory and that in any democratic country with different levels of government there are restrictions on what those levels can and cannot do.²⁰

Recent proposals to advance statehood

- 3.23 The Statehood Work Plan²¹ of the Steering Committee provides an outline of the Northern Territory strategy to advance statehood. The plan updates the six stages to advance statehood identified by LCAC²² and consists of the following seven phases over five to six years:
- Establishing the Statehood Steering Committee;
 - Community Consultation;

20 Professor Carment, *Submission No. 2*, p. 3.

21 Northern Territory Statehood Steering Committee, *Report to the Legislative Assembly Standing Committee on Legal and Constitutional Affairs – 2005 Calendar Year Activities*, Annexure 3 Statehood Work Plan.

22 Northern Territory Legislative Assembly Standing Committee on Legal and Constitutional Affairs, *Appropriate measures to facilitate statehood*, 1999, pp. 7-8.

- Community Education;
 - Public Meetings and Hearings;
 - Legal Requirements;
 - Statehood Convention; and
 - Referendum.
- 3.24 Year one of the plan, 2005, saw the establishment of the Steering Committee, its staff and office systems and the commencement of community consultation. Community consultation included statehood displays at regional shows (Alice Springs, Tennant Creek Katherine and Darwin), the development and dissemination of fact sheets, and the development of communication strategies with Aboriginal communities.
- 3.25 In the second year of the plan (2006), the Steering Committee continued to focus on community consultation and education and undertook a number of community visits and considered legal issues concerning the terms and conditions of a grant of statehood. The Steering Committee also worked on a constitutional development discussion paper covering the Commonwealth *Northern Territory (Self-Government) Act 1978*, the 1998 Statehood Convention and the Aboriginal constitutional statements.²³
- 3.26 In year three of the plan (2007), the Steering Committee plans to commence ‘a process of examining the parameters of Territory Statehood with the Commonwealth toward creating a Memorandum of Understanding on the Terms and Conditions of Statehood’. At this stage the Steering Committee would also seek the views of the community on whether the Territory should continue to proceed towards statehood. A plebiscite on the matter may be conducted by the end of the 2007 dry season (September).²⁴
- 3.27 According to the plan, in 2007 the Steering Committee will also take stock of its achievements, its progress on the Indigenous Framework (further discussed in Chapter 5), and progress against its community consultation and education strategy. As a result of this review, the

23 It is expected that the discussion paper on constitutional development will be released in 2007. See Northern Territory Statehood Steering Committee, Newsletter, Volume 1, Issue 2, 2007, p. 4.

24 Northern Territory Statehood Steering Committee, *Report to the Legislative Assembly Standing Committee on Legal and Constitutional Affairs – 2005 Calendar Year Activities*, Annexure 3 Statehood Work Plan.

Steering Committee may then decide on whether to proceed to a Statehood Convention or Summit. Most delegates to the Convention would be elected, however some legal experts or community representatives may be appointed by LCAC.

- 3.28 The Convention would have the aim of drafting a Constitution for the new State and meet over a twelve month period with 40 sitting days. Following the Convention, the Legislative Assembly would consider the draft constitution and, if it was adopted, put in place mechanisms for another referendum on statehood. If passed at referendum, the Territory would pursue a grant of statehood via Commonwealth legislation in accordance with s. 121 of the Australian Constitution, and the Memorandum of Understanding previously negotiated with the Commonwealth.
- 3.29 The flowchart in Appendix E provides an outline of the various Northern Territory bodies involved with statehood and their role in the process to advance statehood. The flowchart highlights how proposals, feedback and decisions progress through:
- Northern Territory community;
 - Working Committees of the Statehood Steering Committee;
 - The Statehood Steering Committee;
 - The Statehood Executive Group;
 - The Legislative Assembly Standing Committee on Legal and Constitutional Affairs (LCAC);
 - The Legislative Assembly and the Office of the Clerk;
 - The Minister for Statehood and the Northern Territory Government; and
 - The Commonwealth Government and the Federal Parliament.²⁵
- 3.30 The Committee heard that the Steering Committee is not working towards a set timeframe for statehood.²⁶ It appears that the initial target for achieving statehood by the 30th anniversary of self-government in 2008 will not be met. Indeed, another possible timeframe for Northern Territory statehood may be 2011, the centenary of the transfer of the Territory to the Commonwealth.²⁷
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25 Mrs Bradley, *Exhibit No. 7*.

26 Mrs Bradley, *Transcript of Evidence*, 15 November 2006, p. 12.

27 Mrs Bradley, *Lunchtime Talk*, Northern Territory Library, 27 June 2006.

Communication strategies

3.31 A challenge for the Steering Committee will be to build a sense of enthusiasm for statehood in the broad community. There is anecdotal evidence to suggest that Territorians may lack interest in statehood because they view themselves as temporary residents of the Territory.²⁸ This is supported by the high rate of population turnover of the non-Aboriginal Territory population.²⁹

3.32 While polling suggests that most Territorians support statehood,³⁰ the issue does not appear to rank as a major priority for many. According to the Hon Warren Snowdon MP, the Federal Member for Lingiari:

I have been in the parliament for approaching 18 years. In the last 10 years I would have had people come up to me on not more than five or six occasions to raise the question of statehood. It has not been their top priority.³¹

3.33 Mr David Tollner MP, the Member for Solomon stated that:

In my dealings with people I would have far more people come to me and say, 'Let's just abolish the states', ... [than] I do have people coming to me saying, 'When is the Northern Territory going to become a state?'³²

3.34 For independent MLA, Mr Gerry Wood, statehood is a 'luxury item' that is not on the agenda of most Territorians:

They are happy enough if they can get in their tinny and go out on the harbour and catch a few fish on the weekend. Statehood is not hitting them right between the eyes.³³

3.35 It was put to the Committee that greater Commonwealth involvement would help to generate enthusiasm about statehood in the Territory community:

28 See for example, Professor Carment, *Submission No. 2*, p. 2.

29 Northern Territory News, 'NT born, NT bred, not likely: study said' 9 February 2007. The implications of the high rate of non-Aboriginal population turnover is further discussed in Chapter 5.

30 Northern Territory Statehood Steering Committee, 2006 Statehood Survey Results, <http://www.dcm.nt.gov.au/dcm/statehood/documents/2006STATEHOODSURVEYRESULTS.pdf> (accessed 22 February 2007).

31 The Hon Mr Snowdon MP, *Transcript of Evidence*, 14 November 2006, p. 8.

32 Mr Tollner MP, *Transcript of Evidence*, 15 November 2006, p. 70.

33 Mr Wood MLA, *Transcript of Evidence*, 16 November 2006, p. 78.

When the Commonwealth is serious about a model for Northern Territory Statehood it is likely that Territorians, who have hitherto shown little interest, will be energised.³⁴

3.36 The Committee heard that the Steering Committee developed 32 fact sheets on statehood to promote the cause. The fact sheet topics include:

- Self-government and Statehood – What’s the Difference?
- Will Statehood give us a bigger voice in Canberra?
- Will defence forces still be based in the Territory?
- A new name for a new State? and
- Statehood – What does it mean for me?³⁵

3.37 The Steering Committee is also working with the Northern Territory Education Department:

In 2007 this committee, in conjunction with the Northern Territory Department of Education, Employment and Training, is rolling out curriculum relevant materials to all Northern Territory schools.³⁶

3.38 The Steering Committee Schools Education Programme includes ‘statehood quest’ class room activities, storyboards, school visits (incorporated into the civics programme and National Celebrating Democracy Week activities) and future plans for teacher workshops on civics and statehood.³⁷

3.39 In addition, the Steering Committee has commenced discussions with the Australian Electoral Commission concerning projects to inform the public about the voting process. The Steering Committee is also developing a programme of ambassadors for statehood, discussion papers, and a network of supporters.³⁸

34 Northern Territory Statehood Steering Committee, *Submission No. 1*, p. 11. The role of the Commonwealth is discussed below.

35 The fact sheets and storyboards are available on the website of the Statehood Steering Committee: <http://www.statehood.nt.gov.au/>

36 Mrs Bradley, *Transcript of Evidence*, 15 November 2006, p. 9.

37 Northern Territory Statehood Steering Committee, Newsletter, Volume 1, Issue 2, 2007, p. 4.

38 Mrs Bradley, *Transcript of Evidence*, 15 November 2006, pp. 9-10.

Minister for Statehood

- 3.40 In September 2006, the Chief Minister announced the appointment of a Minister for Statehood, the Deputy Chief Minister, Treasurer, Attorney-General and Minister for Justice, the Hon Syd Stirling MLA.
- 3.41 The Minister for Statehood is the government spokesman on statehood matters and operates without a dedicated government agency for this responsibility. While the Statehood Steering Committee and LCAC are advisory bodies to the Legislative Assembly, their focal point in government is the Minister for Statehood.
- 3.42 The relationship between the Statehood Steering Committee, LCAC and the Minister for Statehood was delineated in a November 2006 amendment to the terms of reference of the Steering Committee. The amendment supports the bipartisan approach to statehood by enabling the Minister and the Shadow Minister for Statehood to receive advice from the Steering Committee via the Clerk of the Legislative Assembly.³⁹
- 3.43 The Minister for Statehood, on behalf of the Northern Territory Government, also has the responsibility to lead the negotiations with the Commonwealth on the terms and conditions of a grant of statehood:

It is my job to take the collective views and concerns of the community to cabinet to develop Territory government policy. Along with Terry Mills [the opposition spokesperson on statehood], I will also pursue the Commonwealth government on the eventual terms and conditions of statehood, because a unified approach is absolutely critical in achieving statehood.⁴⁰

Role of the Commonwealth

- 3.44 One of the clear messages emerging from the seminar was that people wanted to know more about the Commonwealth position on

39 The Hon Mr Henderson MLA, Motion, Northern Territory Statehood Steering Committee – Terms of Reference, *Northern Territory Legislative Assembly Hansard*, 30 November 2006.

40 The Hon Mr Stirling MLA, *Transcript of Evidence*, 15 November 2006, pp. 4-5.

statehood. Many seminar participants felt that the Commonwealth needed to take a greater role in assisting to progress the issue of statehood:

For the Commonwealth to turn around and say, 'We're not going to grant you statehood until we get a clear indication from the Northern Territory that the population wants it' is a massive cop-out by the Commonwealth. ... The fact is that nothing can happen with statehood until the Commonwealth gives some indication of what it intends to do.⁴¹

- 3.45 The Committee heard that as it is within the power of the Commonwealth to grant statehood, it is the responsibility of the Commonwealth to progress the issue:

The process of establishing a state is four steps. The first is to take the decision to make the NT a state. This matter is solely for the federal government under section 121 of the Australian Constitution. Only the federal government can make that decision. Lobbying and submissions on this question may be involved to influence the government to that decision, but the decision rests solely with the federal government.⁴²

- 3.46 The Statehood Steering Committee expressed the view that the Commonwealth should restart discussions with the Northern Territory over a grant of statehood:

The SSC feels the Commonwealth should state clearly and publicly its intentions with regard to Northern Territory Statehood. The SSC submits the Commonwealth needs to re-engage with the Northern Territory in a meaningful manner on Statehood and for both parties to clearly state their intentions.⁴³

- 3.47 The Northern Territory Shadow Minister for Statehood expressed frustration with the lack of engagement on statehood by the Commonwealth:

We want to know that our parent, the federal government, is actively engaged in this. Otherwise we are just talking quietly amongst ourselves, looking at documents, wonderful work

41 Mr Tollner MP, *Transcript of Evidence*, 15 November 2006, p. 66.

42 The Hon Mr Hatton, *Transcript of Evidence*, 15 November 2006, p. 14.

43 Statehood Steering Committee, *Submission No. 1*, p. 7.

that has been done by many Territorians over many years, and it has come to the point that we need to know that our parent is actively engaged and that we will no longer be illegitimate children.⁴⁴

- 3.48 An alternative view expressed at the seminar was that the Territory should not expect the Commonwealth to deliver statehood for them.

I do not see that it is unreasonable for the Commonwealth to say, 'Let's think about it a bit further.' I come back to the point that we must earn statehood, and that is what we are doing. We are moving towards it. We must earn it. We do not want the Commonwealth to hand it to us.⁴⁵

- 3.49 The Committee understands that the Commonwealth Department of the Prime Minister and Cabinet, the Attorney-General's Department and the Department of Transport and Regional Services have not undertaken significant work on statehood issues since the failed referendum of 1998.⁴⁶ Furthermore, the Commonwealth has not updated its position on Northern Territory statehood since 1998, when the Prime Minister indicated the in-principle support of the Government for the proposal.

- 3.50 The Committee notes the concern that the Commonwealth Government has not taken a lead on progressing the issue of Northern Territory statehood and resolving the associated terms and conditions of a grant of statehood. It appears that the Commonwealth has continued its long-held position following the failed referendum that it would only consider statehood matters as a result of the initiative of the Northern Territory Government.

The February 2007 Ministerial meeting and the way forward

- 3.51 On 6 February 2007, the Northern Territory Minister and Shadow Minister for Statehood met with the Australian Government Attorney-General and Minister for Local Government Territories and Roads 'to place the issue of statehood back onto the Federal

44 Mr Mills MLA, *Transcript of Evidence*, 15 November 2006, p. 28.

45 The Hon Justice Ashe, *Transcript of Evidence*, 15 November 2006, pp. 67-68.

46 Mr Anderson, *Transcript of Evidence*, 6 February 2007, p. 2; Mr Faulkner, *Transcript of Evidence*, 6 February 2007, p. 3; Mr Angley, *Transcript of Evidence*, 6 February 2007, p. 3.

Government's agenda'.⁴⁷ According to the Steering Committee, the Territory representatives went to the meeting to:

Outline to the Commonwealth that whoever forms Government after the next election will have to provide Territorians with information about what the Commonwealth will agree to about the terms and conditions of Statehood.

...

The Commonwealth will need to tell us about things like the levels of representation of both houses of the Federal parliament and whether or not we are going to be an equal state.⁴⁸

- 3.52 Following the meeting, it was reported that Commonwealth Attorney-General the Hon Philip Ruddock MP was not convinced that Territorians had changed their minds since the failed referendum. The message from the Commonwealth was that Territorians needed to demonstrate their desire for statehood before the Commonwealth would significantly engage with the Territory on the issue.⁴⁹
- 3.53 It is up to the Commonwealth to determine what it considers to be the level of public support for statehood that is necessary in order for it to participate in discussions at an inter-governmental level. The Commonwealth may also wish to postpone inter-governmental discussions until the Northern Territory clarifies its views on the terms and conditions for a grant of statehood and its position on various outstanding issues. As noted by the representative from the Department of the Prime Minister and Cabinet, '[i]t would be a question for the government as to what degree of clarity of views from the Northern Territory would take the debate further'.⁵⁰
- 3.54 The Committee considers that it is not appropriate for the Commonwealth to drive the statehood agenda for the Northern Territory, particularly given the failed referenda on the issue in 1998 and the strong sentiment against statehood by sections of the

47 The Hon Syd Stirling MLA, Minister for Statehood, Joint Press Release with the Shadow Minister for Statehood Mr Terry Mills MLA, 5 February 2007.

48 Sue Bradley AM, 'Committee welcomes exploratory trip to Canberra', Media Release, Statehood Steering Committee, 5 February 2007.

49 ABC News Online, 'Ruddock questions NT's statehood push' 7 February 2007, <http://www.abc.net.au/news/newsitems/200702/s1841951.htm> (accessed 7 February 2007)

50 Mr Anderson, *Transcript of Evidence*, 6 February 2007, p. 6.

Aboriginal community in the Territory. Presumably the Commonwealth also wishes to avoid potential criticism that it is meddling in domestic Territory politics in regard to statehood issues, many of which, as this report indicates, are complex and unresolved.

- 3.55 One problem with the approach to statehood taken by the Commonwealth is that it may be difficult for the Northern Territory to consult on and promote a model for statehood that has not been agreed to by the Commonwealth. It could potentially be a futile exercise for the Northern Territory to invest years of work on a particular approach to statehood, gain community acceptance, and then find that this approach is not supported by the Commonwealth Government.
- 3.56 Without some Commonwealth involvement at a reasonably early stage, Territorians may be asked again to vote on a broad proposal for statehood that does not address the outstanding statehood questions including representation in the federal parliament, land rights, and uranium mining. Such an approach would seem unlikely to succeed given past experience.

Territory people will not under any circumstances, in my opinion – whether you call it a pig in a poke or anything else – go towards statehood without knowing what the Commonwealth intends to do when it gets before the chambers of the Commonwealth parliament in the forms of the enabling bills. It just will not happen. If that is the way the Commonwealth wants to stop the process, let it say so now and be done with it.⁵¹

- 3.57 Understandably, the Northern Territory Government would not wish to hold another referendum without some prior negotiation or discussion with the Commonwealth regarding statehood terms and conditions. According to the Minister for Statehood:

Territorians have clearly told us that they want to know the terms and conditions of statehood before they vote on such an issue in a referendum. It is a very important and valuable lesson that we have learnt from history and it has shaped the new approach to statehood.⁵²

- 3.58 The Commonwealth could feasibly assist the statehood process by re-commencing work on the various issues related to statehood
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51 Mr Martin, *Transcript of Evidence*, 15 November 2006, p. 29.

52 The Hon Mr Stirling MLA, *Transcript of Evidence*, 15 November 2006, p. 4.

(including constitutional, legislative and administrative matters) and updating and refining its position on statehood, while leaving other matters (such as a new constitution) for the Northern Territory to address or to be negotiated at a later date. There does not appear to be any major administrative or technical barrier to the Commonwealth updating its position on Northern Territory Statehood.⁵³

The view of the Committee

- 3.59 The Committee considers that there is a real danger of statehood being in a stalemate if the Commonwealth does not progress matters in some way. In the case of such a stalemate, the role of the Steering Committee may be reduced to endlessly consulting and promoting statehood. While there is an important role for consultation and promotion, the difficulty lies in implementing a strategy to achieve statehood with the support of the Commonwealth and Territory Governments and the people of the Northern Territory.
- 3.60 Another possibility would be for the Northern Territory and Commonwealth Governments to negotiate a settlement on the main areas of legislative responsibility yet to be transferred following self-government and effectively remove those matters from the statehood agenda. The Commonwealth could even conceivably wind back the powers it has in the Territory and declare that it would not exercise power in the Territory that it cannot exercise in states.⁵⁴
- 3.61 On balance, the Committee considers that there is a role for the Commonwealth Government to play in assisting the Northern Territory work through some of the unresolved issues of statehood, without driving the agenda. This would involve the Commonwealth updating its broad position on statehood and clarifying its approach to some of the unresolved issues including, for example, the representation of the new State in the Federal Parliament.
- 3.62 By refreshing its position on Northern Territory statehood, the Commonwealth would assist the Northern Territory in further developing its own position on statehood and allow the Territory Government to consult its citizens with more concrete proposals. The people of the Northern Territory would be in a better position to come to a view on statehood if they had a clearer understanding of the associated terms and conditions.

53 Mr Anderson, *Transcript of Evidence*, 6 February 2007, p. 7.

54 Mr Martin, *Transcript of Evidence*, 15 November 2006, p. 30.

Recommendation

- 3.63 **The Committee recommends that the Australian Government update and refine its position on Northern Territory statehood and recommence work on unresolved federal issues.**

