
The Parliament of the Commonwealth of Australia

Norfolk Island

Review of the Annual Reports of the Department of Transport and Regional Services and the Department of the Environment and Heritage

Joint Standing Committee on the National Capital and External Territories

July 2004
Canberra

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Foreword

The Committee commenced this review of the work of the departments of Transport and Regional Services and the Environment and Heritage on Norfolk Island in July 2002. The completion of the review was delayed by the Committee's inquiry into governance on Norfolk Island. This annual report review was conducted in conjunction with the inquiry into governance. The recommendations in this report are, therefore, conditional on the acceptance and implementation of the recommendations of the Committee's first report of the governance inquiry.

The overwhelming evidence, from this review, the governance inquiry and previous inquiries that this Committee and others (including the Norfolk Island Government) have conducted, is that Norfolk Island faces relatively considerable and growing administrative and financial challenges and needs help. I stress that the latter included evidence from those who had lived on Norfolk Island for many years, those who came from old Island families, residents of Pitcairn descent, serving and former members of the Norfolk Island Administration and the Norfolk Island Legislative Assembly. Of considerable concern to the Committee was the fact that many were only prepared to come forward if their identity and/or some or all of their evidence was kept confidential, principally because of their conviction that they would suffer some form of reprisal for speaking out.

The Committee believes that, in view of its role and responsibilities towards the Island community, the Federal Government should assist the Norfolk Island Government in providing or upgrading a range of essential services for that community. These include assistance with new sewage disposal facilities that protect the health of the Island's community, visitors, environment and economy; the construction and equipping of a multi-purpose health facility; ensuring access for the women of Norfolk Island to a regular and effective breast screening programme; assisting Island residents, students and employers with vocational education and training opportunities; and the teaching and preservation of the language of the Pitcairn Island descendants.

The Government Members of the Committee support the conversion of residential crown leasehold to freehold title on Norfolk Island. The Government Members believe that, as any transfer would be subject to the safeguards provided by the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), concerns regarding any conversion or transfer should be raised - and can be resolved - through the processes laid down by this Act. Furthermore, in this report, the land transfer would be contingent on the acceptance and implementation of the Committee's good governance reforms recommended in the first governance report as well as the recommendations contained in this report.

As usual, there will be a vocal, self-interested minority that will criticise or misrepresent the Committee's efforts and attempt to stifle considered debate on our recommendations. Those opposed to necessary reform on the Island will, undoubtedly, endeavour to stymie any attempts at reform. There will be those who seek to ensure this report joins the long list of other reports by Federal and Norfolk Island inquiries that have never been implemented and which now gather dust. If they succeed, the Committee will have wasted its time and that of the Island community, the cause of genuine reform on Norfolk Island will be set back irrevocably and the future of the Island community seriously undermined.

My Committee colleagues and I will continue to take a keen and active interest in the responses to this report and in ensuring equality and a sustainable future for the Norfolk Island community.

The Committee is grateful to all those who participated in this very important inquiry. We are especially grateful to those on the Island who assisted the Committee and for the hospitality shown to the Committee by residents of the Island during our many visits.

Senator Ross Lightfoot
Chairman

40th Parliament

Membership of the Committee

Chairman Senator Ross Lightfoot

Deputy Chair Senator Trish Crossin

Members The Hon Ian Causley MP Senator John Hogg
 Ms Annette Ellis MP Senator Kate Lundy
 Mr Michael Johnson MP (discharged Senator Nigel Scullion
 on 19/02/2004)
 Mr Paul Neville MP Senator Natasha Stott Despoja
 The Hon Warren Snowdon MP
 Mr Cameron Thompson MP
 Dr Mal Washer (appointed on
 19/02/2004)

Committee Secretariat

Secretary Mrs Margaret Swieringa

Inquiry Secretary Mr Quinton Clements

Senior Research
Officer Mr Justin Baker

Administrative Officers Mr Daniel Miletic

 Mrs Donna Quintus-Bosz



Terms of reference

That, in respect of its review of the Annual Reports of the Department of Transport and Regional Services 2002-2003 and the Department of Environment and Heritage 2002-2003, which stand referred to the Joint Standing Committee on the National Capital and External Territories by the House of Representatives, it monitor the External Territories in order to review the development of services and the implementation of programs to a standard commensurate with equivalent mainland communities. In particular, the review should consider:

Norfolk Island:

- Heritage protection and management of the Kingston and Arthur's Vale Historic Area (KAVHA) on Norfolk Island;
- Land management and planning for Norfolk Island;
- Land use and land transfer by the Commonwealth Government; and
- Legal aid Contribution to Norfolk Island.



List of abbreviations

ACF	Australian Conservation Foundation
AHC	Australian Heritage Commission
AFP	Australian Federal Police
ANTA	Australian National Training Authority
BoM	Commonwealth Bureau of Meteorology
CGC	Commonwealth Grants Commission
Cth	Commonwealth
EIS	Environmental Impact Statement
EPBC Act	<i>Environmental Protection and Biodiversity Conservation Act 1999</i> (Cth)
KAVHA	Kingston and Arthur's Vale Historic Area
MLA	Member of the Norfolk Island Legislative Assembly
MOU	Memorandum of Understanding
NHT	National Heritage Trust
NI	Norfolk Island
PER	Public Environment Report
RNE	Register of the National Estate
VET	Vocational Education and Training



List of recommendations

1 Introduction

Recommendation 1

That the recommendations of this report be conditional on the acceptance and implementation of the recommendations in the Committee's report *Quis custodiet ipsos custodes?: Inquiry into Governance on Norfolk Island*.

2 Managing a Unique Natural Environment

Recommendation 2

That the Federal Government make no decision or commitment in respect of the transfer to freehold title of other types of Crown leasehold or licences until after a suitable period has passed to enable an assessment of the effectiveness of the new land management and planning regime, especially in respect of residential Crown leases that will have been transferred to freehold title.

Recommendation 3

That, before any land transfers take place, the Federal Government ensure that the new land package is appropriately resourced and will continue to be in the future and that, prior to any transfer, the Federal Minister report to Parliament on steps taken to ensure the latter.

Recommendation 4

That the Federal Government extend its reassessment of its current policies with respect to Norfolk Island and the basis for the Territory's exclusion from Commonwealth programmes and services to include planning and environmental management on Norfolk Island.

Recommendation 5

That the *Norfolk Island Act 1979* (Cth), together with the relevant Norfolk Island laws, be amended to provide for an effective, ongoing role for the Federal Government in the making and amendment of the Territory's statutory planning and land use regime.

Recommendation 6

That the appropriate financial and human resources be provided to the Commonwealth Department of the Environment and Heritage to monitor and enforce compliance with Crown lease covenants and conservation and related agreements on Norfolk Island.

Recommendation 7

That the Federal Government act immediately to ensure that Island residents and community organisations, as well as the Norfolk Island Government, be made aware of and eligible to apply for financial and other assistance provided under federal programmes, services and grant schemes that may be relevant to planning, environmental, heritage and land management.

Recommendation 8

That net revenue received by the Federal Government in respect of any freeholding of Crown land on Norfolk Island be set aside to assist leasehold and freehold landholders on Norfolk Island who enter into conservation agreements, covenants or access agreements or similar undertakings with the Federal Government concerning the protection and conservation of the environment or heritage on their land or the Island more generally.

Recommendation 9

That Recommendation Eight be implemented by the Federal Government establishing a Norfolk Island Trust Fund administered by the Federal Minister for the Environment and Heritage.

Recommendation 10

That the Department of Transport and Regional Services and the Department of the Environment and Heritage, as the responsible Commonwealth agencies, specifically detail in future annual reports the human, financial and other resources allocated by each Department to administer the Federal Government's statutory and other responsibilities with respect to the environment and heritage of Norfolk Island.

Recommendation 11

That the Commonwealth retain both ownership and responsibility for the management of the Norfolk Island National Park.

Recommendation 12

That the Federal Government assist the Norfolk Island Government in upgrading existing sewage services and, where necessary, developing new sewage disposal facilities that protect the health of the community, visitors, the environment and adjacent coastal areas of Norfolk Island.

Recommendation 13

That the Federal Government ensure that the Norfolk Island Government take immediate and appropriate measures, in accordance with national standards, for the removal and disposal of asbestos on Norfolk Island.

3 Heritage Protection

Recommendation 14

That the Federal Government review the management arrangements of the Kingston and Arthur's Vale Historic Area, with particular emphasis on the following:

- future funding arrangements for the management and preservation of KAVHA;
- the structure, role and powers of the KAVHA Management Board and its incorporation; and
- the management of national estate sites situated outside KAVHA.

Recommendation 15

That the Joint Standing Committee on the National Capital and External Territories conduct the review of the management arrangements of the Kingston and Arthur's Vale Historic Area and report to the Federal Parliament.

Recommendation 16

That the Federal Government take immediate steps to ensure that Norfolk Island residents and community organisations, as well as the Norfolk Island Government, be made aware of and become eligible to apply for Federal Government grant schemes on the same basis as other communities in regional and remote areas of Australia.

4 The Adequacy of Services

Recommendation 17

That the Federal Government, as a matter of urgency, provide funding for the construction and equipping of a multi-purpose health facility on Norfolk Island.

Recommendation 18

That the Federal Government, as a matter of urgency, take action to ensure that women on Norfolk Island have access to an effective breast screening program, and that BreastScreen Australia review the provision of this service to Norfolk Island.

Recommendation 19

That the Federal Government negotiate with the Norfolk Island Government the most effective way to deliver vocational education and training opportunities to Norfolk Island residents and students.

Recommendation 20

That the Federal Government:

- undertake a review of the assistance, services and programmes that it provides in respect of primary and secondary school education with a view to ensuring that Norfolk Island residents and students enjoy access and opportunities equal to that enjoyed by other Australians; and
- that this include the teaching of the language/dialect of the Pitcairn Island descendants in the Norfolk Island School.

Recommendation 21

That the Federal Government take immediate steps to ensure:

- the commencement of a phased reform of Norfolk Island law, with priority for redrafting of existing laws to be determined by both the Federal and Territory governments, with the Federal Government having the final say in the case of disagreement;
- a new and dedicated legislative drafter, supported by and reporting to the Commonwealth Office of Parliamentary Counsel and Commonwealth Attorney-General's Department, to draft the aforementioned reforms; and
- the new laws, once drafted, be implemented by an Ordinance introduced into the Norfolk Island Legislative Assembly by the Governor-General pursuant to Section 26 of the *Norfolk Island Act 1979* (Cth).

Recommendation 22

That the Federal Government take immediate steps to ensure:

- reform of the Territory's child welfare law to ensure that it conforms with the Convention on the Rights of the Child and best practice in Australia;
- completion of the reform of the Territory's child welfare law within 12 months of acceptance of this recommendation;
- reform of the Territory's criminal justice laws, which is to be completed within 12 months of acceptance of this recommendation;
- reform of the regulation of companies in the Territory with a view to applying Federal company, bankruptcy and insolvency laws to the Territory;
- application of the proposed uniform national legal profession laws to legal practitioners who practice in the jurisdiction of Norfolk Island;
- that, pending promulgation of the proposed national legal profession laws, legal practitioners on Norfolk Island be required to register in some other Australian legal jurisdiction; and
- review of the Employment Act 1988 (NI) to ensure it is consistent with best practice and legislation in other Australian jurisdictions and is in compliance with International Labour Organization Conventions and Australia's other international obligations.

Recommendation 23

That the Federal Government take immediate steps to extend access to legal aid to those Island residents seeking to appeal or have reviewed the decisions of Norfolk Island Government Ministers and officials affecting them.

