



**GOVERNMENT RESPONSE TO THE JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES' REPORT *NORFOLK ISLAND: REVIEW OF THE ANNUAL REPORTS OF THE DEPARTMENT OF TRANSPORT AND REGIONAL SERVICES AND THE DEPARTMENT OF THE ENVIRONMENT AND HERITAGE***

**June 2005**

**GOVERNMENT RESPONSE TO THE JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES' (JSC'S) REPORT *NORFOLK ISLAND: REVIEW OF THE ANNUAL REPORTS OF THE DEPARTMENT OF TRANSPORT AND REGIONAL SERVICES AND THE DEPARTMENT OF THE ENVIRONMENT AND HERITAGE***

**Introduction**

This response is tabled jointly by the Hon Jim Lloyd MP, Minister for Local Government, Territories and Roads and Senator the Hon Ian Campbell, Minister for the Environment and Heritage.

It should be noted that a number of the recommendations included in this report are either included as recommendations of the JSC report *Quis custodiet ipsos custodes? Inquiry into Governance on Norfolk Island* (the first report on the Committee's inquiry into Norfolk Island Governance) or are matters that the JSC may consider as part of its second Governance report, which is to concentrate on financial sustainability. Responses to these recommendations will be dealt with in the Government's responses to those reports.

<b>JSC Recommendations</b>	<b>Government Response</b>
<p><b>Recommendation 1</b> That the recommendations of this report be conditional on the acceptance and implementation of the recommendations in the Committee's report <i>Quis custodiet ipsos custodes? Inquiry into Governance on Norfolk Island</i>.</p>	<p><i>Rejected. The Australian Government is still considering Part 1 of the Committee's Governance report and is still awaiting Part 2 of its Inquiry into Governance on Norfolk Island.</i></p>

<p><b>Recommendation 2</b> 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.</p>	<p><i>Accepted. No decision will be taken in respect of other Crown land until the current transfer process is well advanced.</i></p>
<p><b>Recommendation 3</b> 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.</p>	<p><i>Rejected. The Australian Government made the land transfer conditional on the Norfolk Island Government meeting a number of prerequisites, including implementing a new land management and planning regime, to the satisfaction of the Commonwealth. The Norfolk Island Government has met these prerequisites. Implementation and resourcing is now a matter for the Norfolk Island Government.</i></p>
<p><b>Recommendation 4</b> 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.</p>	<p><i>Noted. Included as part of Recommendation 2 in the report on Part 1 of the Joint Standing Committee's Governance Inquiry. The recommendation will be dealt with in the context of the Government's response to the Governance Inquiry.</i></p>

<p><b>Recommendation 5</b> That the <i>Norfolk Island Act 1979</i> (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.</p>	<p><i>Rejected. Under the Norfolk Island Act 'land' is a non-schedule matter and as such the Commonwealth has a veto power over changes to Norfolk Island legislation that would amend current 'land' laws. In addition, the Commonwealth always retains the option of amending the Norfolk Island Act to provide additional controls if considered necessary.</i></p>
<p><b>Recommendation 6</b> 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.</p>	<p><i>Noted.</i></p>
<p><b>Recommendation 7</b> 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.</p>	<p><i>Included as part of Recommendation 2 in the report on Part 1 of the Joint Standing Committee's Governance Inquiry. The recommendation will be dealt with in the context of the Government's response to the Governance Inquiry.</i></p>

<p><b>Recommendation 8</b> 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.</p>	<p><i>Partially accepted. The Australian Government has decided that revenue from the land transfer will be placed in an environmental trust, in honour of the late Ivens (Toon) Buffett. The Government is finalising arrangements for the operation of the trust in conjunction with the Norfolk Island Government.</i></p>
<p><b>Recommendation 9</b> 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.</p>	<p><i>Rejected. The Australian Government proposes that, subject to agreement of the operational details, the trust be administered by the Norfolk Island Government.</i></p>
<p><b>Recommendation 10</b> 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.</p>	<p><i>Rejected. Due to the administrative difficulties involved in disaggregating the human, financial and other resources used in relation to Norfolk Island environment and heritage matters as opposed to other functions, the task would be time consuming and any information published would be of limited value.</i></p>

<p><b>Recommendation 11</b> That the Commonwealth retain both ownership and responsibility for the management of the Norfolk Island National Park.</p>	<p><i>Accepted. Continued management of the National Park and Botanic Gardens by the Australian Government is consistent with current Government policy.</i></p>
<p><b>Recommendation 12</b> 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.</p>	<p><i>Noted. The Australian Government will consider this recommendation as part of its consideration of the Joint Standing Committee's reports on its Governance Inquiry .</i></p>
<p><b>Recommendation 13</b> 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.</p>	<p><i>Partially accepted. The Australian Government is working with the Norfolk Island Government on the removal and disposal of asbestos within KAVHA. Matters to do with asbestos outside of KAVHA are a responsibility of the Norfolk Island Government.</i></p>

<p><b>Recommendation 14</b> That the Federal Government review the management arrangements of the Kingston and Arthur's Vale Historic Area, with particular emphasis on the following:</p> <ul style="list-style-type: none"> <li>• future funding arrangements for the management and preservation of KAVHA;</li> <li>• the structure, role and powers of the KAVHA Management Board and its incorporation; and</li> <li>• the management of national estate sites situated outside KAVHA.</li> </ul>	<p><i>Accepted. In September 2004 the Kingston and Arthur's Vale Historic Area Management Board commenced a review of the 1994 Memorandum of Understanding including the role, structure and powers of the Board to establish whether any updating of the MOU would be required.</i></p>
<p><b>Recommendation 15</b> 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.</p>	<p><i>Rejected. The Kingston and Arthur's Vale Historic Area Management Board has commenced a review of the 1994 Memorandum of Understanding including the role, structure and powers of the Board. It proposes to make a proposal to both the Norfolk Island and Australian Governments for consideration in due course.</i></p>
<p><b>Recommendation 16</b> 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.</p>	<p><i>Noted. Included as part of Recommendation 2 in the report on Part 1 of the Joint Standing Committee's Governance Inquiry. The recommendation will be dealt with in the context of the Government's response to the Governance Inquiry .</i></p>

<p><b>Recommendation 17</b> 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.</p>	<p><i>Noted. The Australian Government will consider this recommendation as part of its consideration of the Joint Standing Committee's reports on its Governance Inquiry .</i></p>
<p><b>Recommendation 18</b> 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.</p>	<p><i>Noted. Included as part of Recommendation 2 in the report on Part 1 of the Joint Standing Committee's Governance Inquiry. The recommendation will be dealt with in the context of the Government's response to the Governance Inquiry .</i></p>
<p><b>Recommendation 19</b> 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.</p>	<p><i>Noted. The Australian Government will consider this recommendation as part of its consideration of the Joint Standing Committee's reports on its Governance Inquiry .</i></p>



<p><b>Recommendation 20</b></p> <p>That the Federal Government:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• that this include the teaching of the language/dialect of the Pitcairn Island descendants in the Norfolk Island School.</li> </ul>	<p><i>Noted. Included as part of Recommendation 2 in the report on Part 1 of the Joint Standing Committee's Governance Inquiry. The recommendation will be dealt with in the context of the Government's response to the Governance Inquiry .</i></p>
<p><b>Recommendation 21</b></p> <p>That the Federal Government take immediate steps to ensure:</p> <ul style="list-style-type: none"> <li>• 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;</li> <li>• 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</li> <li>• 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 <i>Norfolk Island Act 1979 (Cth)</i>.</li> </ul>	<p><i>Noted. Identical to Recommendation 30 in the report on Part 1 of the Joint Standing Committee's Governance Inquiry. The recommendation will be dealt with in the context of the Government's response to the Governance Inquiry .</i></p>

**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.

*Noted. Identical to Recommendation 32 in Part 1 of Governance report. The recommendation will be dealt with in the context of the Government's response to the Governance Inquiry.*

**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.

*Noted. Included as part of Recommendation 2 in the report on Part 1 of the Joint Standing Committee's Governance Inquiry. The recommendation will be dealt with in the context of the Government's response to the Governance Inquiry.*

*(The Norfolk Island Government has provided the Australian Government with a draft Bill to amend the Legal Aid Act 1995 (NI) (LAA) and has proposed changes to the Memorandum of Understanding on Legal Aid to give effect to a number of the recommendations in the 2000 Staniforth Review of the Norfolk Island Legal Aid Scheme. Discussion with the Norfolk Island Government on further amendment of the LAA to further enhance the operation of the scheme will be undertaken .)*